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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10  
11 CORY SPENCER, an individual; DIANA  
MILENA REED, an individual; and  
12 COASTAL PROTECTION RANGERS,  
INC., a California non-profit public  
13 benefit corporation,

14 Plaintiff,

15 vs.

16 LUNADA BAY BOYS; THE  
INDIVIDUAL MEMBERS OF THE  
17 LUNADA BAY BOYS, including but not  
limited to SANG LEE, BRANT  
18 BLAKEMAN, ALAN JOHNSTON AKA  
JALIAN JOHNSTON, MICHAEL RAE  
19 PAPAYANS, ANGELO FERRARA,  
FRANK FERRARA, CHARLIE  
20 FERRARA; CITY OF PALOS VERDES  
ESTATES; CHIEF OF POLICE JEFF  
21 KEPLEY, in his representative capacity;  
and DOES 1-10,

22 Defendants.  
23

Case No. 2:16-cv-2129

Judge: Hon. S. James Otero  
Dept: Courtroom 10C

Magistrate Judge:  
Hon. Rozella A. Oliver

**REQUEST FOR JUDICIAL  
NOTICE OF ADJUDICATIVE  
FACTS IN SUPPORT OF  
DEFENDANT CHARLIE  
FERRARA'S MOTION FOR  
SUMMARY JUDGMENT OR, IN  
THE ALTERNATIVE, PARTIAL  
SUMMARY JUDGMENT**

*[Filed concurrently with Notice of  
Motion; Memorandum of Points and  
Authorities; Declaration of Tiffany  
Bacon; Notices of Lodging; proposed  
Statement of Uncontroverted Facts  
and Conclusions of Law and  
[Proposed] Judgment lodged  
herewith]*

Date: August 21, 2017  
Time: 10:00 a.m.  
Dept: Courtroom 10C

Complaint Filed: March 29, 2016  
Trial Date: November 7, 2017

**TO THE HONORABLE COURT AND TO ALL PARTIES AND THEIR  
RESPECTIVE ATTORNEYS OF RECORD:**

Defendant CHARLIE FERRARA (“Defendant” or “Charlie Ferrara”) respectfully requests this Court take judicial notice, pursuant to *Federal Rules of Evidence*, Rule 201, of the following Court records and facts in support of Charlie Ferrara’s Motion for Summary Judgment against Plaintiffs CORY SPENCER (“Spencer”), DIANA MILENA REED (“Reed”) and COASTAL PROTECTION RANGERS, INC. (“CPR”) (collectively, “Plaintiffs”) or, in the alternative partial summary judgment.

1. Class Action Complaint (“Complaint”) filed on March 29, 2016 in United States District Court for the Central District of California, Case No. 2:16-cv-02129-SJO (RAOx). A true and correct copy of the Complaint is attached hereto as **Exhibit A** and incorporated herein by this reference.

2. Charlie Ferrara’s Answer to Complaint (“Answer”) filed on September 2, 2016 in United States District Court for the Central District of California, Case No. 2:16-cv-02129-SJO (RAOx). A true and correct copy of the Answer is attached hereto as **Exhibit B** and incorporated herein by this reference.

3. Order Granting in Part and Denying in Part Defendants City of Palos Verdes Estates and Chief of Police Jeff Kepley’s Motion to Dismiss Complaint entered on July 11, 2016, Document 84, in United States District Court for the Central District of California, Case No. 2:16-cv-02129-SJO (RAOx). A true and correct copy of the Court’s Order is attached hereto as **Exhibit C** and incorporated herein by this reference.

4. Scheduling Conference Order entered on August 29, 2016, Document 120, in United States District Court for the Central District of California, Case No. 2:16-cv-02129-SJO (RAOx). A true and correct copy of the Scheduling Conference Order is attached hereto as **Exhibit D** and incorporated herein by this reference.

1           5.     Plaintiffs' Supplemental Disclosures filed on November 9, 2016,  
2 Document 138-1, in United States District Court for the Central District of  
3 California, Case No. 2:16-cv-02129-SJO (RAOx). A true and correct copy of  
4 Plaintiffs' Supplemental Disclosures is attached hereto as **Exhibit E** and  
5 incorporated herein by this reference.

6           6.     Order Denying Motion for Class Certification entered on February 21,  
7 2017, Document 225, in United States District Court for the Central District of  
8 California, Case No. 2:16-cv-02129-SJO (RAOx). A true and correct copy of the  
9 Court's Order is attached hereto as **Exhibit F** and incorporated herein by this  
10 reference.

11          7.     Order denying petition for permission to appeal the district court's  
12 February 21, 2017 order denying class action certification, entered on May 18, 2017  
13 in the United States Court of Appeals for the Ninth Circuit, No. 17-80033. A true  
14 and correct copy of the Order is attached hereto as **Exhibit G** and incorporated  
15 herein by this reference.

16          8.     Plaintiff Spencer's Declaration in support of Plaintiffs' Motion for Class  
17 Certification, filed on December 29, 2016, Document 159-4, in United States District  
18 Court for the Central District of California, Case No. 2:16-cv-02129-SJO (RAOx).  
19 A true and correct copy of Plaintiff Spencer's Declaration is attached hereto as  
20 **Exhibit H** and incorporated herein by this reference.

21          9.     Plaintiff Reed's Declaration in support of Plaintiffs' Motion for Class  
22 Certification, filed on December 29, 2016, Document 159-5, in United States District  
23 Court for the Central District of California, Case No. 2:16-cv-02129-SJO (RAOx).  
24 A true and correct copy of Plaintiff Reed's Declaration is attached hereto as **Exhibit**  
25 **I** and incorporated herein by this reference.

26 ///

27 ///

28 ///

1 11. Declaration of Mark Slatten, President of Plaintiff CPR, in support of  
2 Plaintiffs' Motion for Class Certification, filed on December 29, 2016, Document  
3 159-6, in United States District Court for the Central District of California, Case No.  
4 2:16-cv-02129-SJO (RAOx). A true and correct copy of the Court's Order is  
5 attached hereto as **Exhibit J**.

6 Dated: July 24, 2017

BREMER WHYTE BROWN & O'MEARA  
LLP

7  
8  
9 By: 

10 Alison K. Hurley  
11 Tiffany L. Bacon  
12 Attorneys for Defendants  
13 FRANK FERRARA and CHARLIE  
14 FERRARA  
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# Exhibit A

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13 CORY SPENCER, DIANA MILENA  
REED, and COASTAL PROTECTION  
14 RANGERS, INC.

15  
16 **UNITED STATES DISTRICT COURT**  
17 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**  
18

19 CORY SPENCER, an individual;  
DIANA MILENA REED, an  
20 individual; and COASTAL  
PROTECTION RANGERS, INC., a  
21 California non-profit public benefit  
corporation,

22  
23 Plaintiffs,  
24 vs.

25 LUNADA BAY BOYS; THE  
INDIVIDUAL MEMBERS OF THE  
26 LUNADA BAY BOYS, including but  
not limited to SANG LEE, BRANT  
BLAKEMAN, ALAN JOHNSTON  
27 AKA JALIAN JOHNSTON,  
MICHAEL RAE PAPAYANS,  
28 ANGELO FERRARA, FRANK

CASE NO. 2:16-cv-2129

**CLASS ACTION COMPLAINT AND  
JURY DEMAND**

1 FERRARA, CHARLIE FERRARA,  
2 and NICOLAS FERRARA; CITY OF  
3 PALOS VERDES ESTATES; CHIEF  
4 OF POLICE JEFF KEPLEY, in his  
5 representative capacity; and DOES  
6 1-10,

7 Defendants.

8 Plaintiffs Cory Spencer, Diana Milena Reed, and Coastal Protection  
9 Rangers, Inc. (collectively referred to as "Plaintiffs"), by and through their  
10 attorneys, allege based upon their own personal knowledge as to their own  
11 acts, upon information and belief, and upon their attorneys' investigation as  
12 to all other facts.

## 13 THE PARTIES

### 14 Plaintiffs

15 (1) Plaintiff Cory Spencer is a 45-year old resident of Norco,  
16 California, an El Segundo police officer, experienced surfer, and avid  
17 beachgoer. On behalf of himself and on behalf of a class of visiting  
18 beachgoers to the City of Palos Verdes Estates, Spencer alleges that he has  
19 been unlawfully excluded from recreational opportunities at Palos Verdes  
20 Estates parks, beaches, and access to the ocean.

21 (2) Plaintiff Diana Milena Reed is a 29-year old resident of Malibu,  
22 filmmaker, photographer, aspiring big wave surfer, and avid beachgoer. She  
23 surfs and trains extensively with the goal of becoming a competitive big  
24 wave surfer. On behalf of herself and on behalf of a class of visiting  
25 beachgoers to the City of Palos Verdes Estates, Reed alleges that she has  
26 been unlawfully excluded from recreational opportunities at Palos Verdes  
27 Estates parks, beaches, and access to the ocean.

28 (3) Plaintiff Coastal Protection Rangers, is dedicated to enforcing  
the California Coastal Act and protecting California's beaches and ensuring

1 that they are safe and accessible to all visitors. The Coastal Protection  
2 Rangers alleges that non-resident, non-local visiting beachgoers to Palos  
3 Verdes Estates have been unlawfully excluded from recreational  
4 opportunities at Palos Verdes Estates parks, beaches, and access to the  
5 ocean. Plaintiff Coastal Protection Rangers also alleges that Defendant  
6 LUNADA BAY BOYS, with the okay of Defendant PALOS VERDES  
7 ESTATES which owns the beach-park area, knowingly built and maintains  
8 an unpermitted masonry-rock-and-wood fort and seating area ("Rock Fort")  
9 in violation of the California Coastal Act.

10 Defendants

11 (4) Defendant LUNADA BAY BOYS was, and at all times mentioned  
12 herein is, an unincorporated association within the meaning of Code of Civil  
13 Procedure § 369.5 acting by and through its respective members and  
14 associates. Defendant LUNADA BAY BOYS acts by and through its  
15 respective members, individually, collectively, and in concert, and conducts  
16 its affairs and activities in the City of Palos Verdes Estates, County of Los  
17 Angeles, State of California. Defendant LUNADA BAY BOYS claims gang  
18 territory, or "turf" within the City of Palos Verdes Estates' Lunada Bay  
19 neighborhood (Lunada Bay) depicted in Exhibit 1, which is attached and  
20 incorporated herein.

21 (5) Defendant LUNADA BAY BOYS is, and at all times mentioned  
22 herein was, a criminal street gang as defined in California Penal Code  
23 § 186.22, subdivision (f), in as much as it is a group of three or more  
24 individuals with a common name or common symbol and whose members,  
25 individually or collectively, engage in or have engaged in a pattern of  
26 criminal gang activity, and has as one of its primary activities the  
27 commission of enumerated "predicate crimes," including but not limited to  
28 assault, battery, vandalism, intimidation, harassment, extortion, and, upon

1 information and belief, the sale and use of illegal controlled substances.  
2 Upon information and belief, Defendant LUNADA BAY BOYS uses the  
3 unpermitted Rock Fort to conduct criminal activity.

4 (6) Defendant LUNADA BAY BOYS is, and at all times mentioned  
5 herein is, also an unincorporated association within the meaning of  
6 Corporations Code § 18035, subdivision (a), inasmuch it consists of two or  
7 more individuals joined by mutual consent for some common lawful  
8 purposes, such as attending social gatherings, and recreational events.  
9 However, notwithstanding any common lawful purpose, Defendant LUNADA  
10 BAY BOYS is a criminal gang whose members are primarily engaged in  
11 criminal and nuisance activities which constitute Bane Act violations and a  
12 public nuisance.

13 (7) Defendant LUNADA BAY BOYS is comprised of members  
14 including, but not limited to Sang Lee, Brant Blakeman, Angelo Ferrara,  
15 Frank Ferrara, Nicholas Ferrara, Charlie Ferrara, Michael Rae Papayans,  
16 Alan Johnston aka Jalian Johnston (collectively hereinafter known as  
17 "Designated Lunada Bay Boys Gang Members" or "the Individual  
18 Defendants"), each of whom has been within the Lunada Bay and is  
19 responsible in some manner for the Bane Act violations and public nuisance  
20 described in this Complaint.

21 (8) Defendant PALOS VERDES ESTATES is a general law city  
22 bound by the State's general law. By its policies, customs, and practices,  
23 and in deliberate indifference to Plaintiffs' rights under state and federal law,  
24 PALOS VERDES ESTATES has excluded Plaintiffs, and persons like them,  
25 from their right to recreational opportunities at Palos Verdes Estates' parks,  
26 beaches, and access to the ocean.

27 (9) Defendant Jeff Kepley, named in his representative capacity,  
28 serves as the Chief of Police of Defendant PALOS VERDES ESTATES.



1 Defendant Kepley has failed to enforce the State's laws when it comes to  
2 crimes committed by Defendant LUNADA BAY BOYS against visiting  
3 beachgoers like Plaintiffs.

4 (10) Defendants Does 1 through 10 are individuals, the true identities  
5 of whom are presently unknown to Plaintiffs, who therefore sue these  
6 defendants by such fictitious names. The Plaintiffs will amend this complaint  
7 to allege their true names when such information is ascertained. The  
8 Plaintiffs are informed and believes that each of the defendants designated  
9 as Does 1 through 10, inclusive, as well as others to be named, is a member  
10 of Defendant Lunada Bay Boys and is responsible in some manner for the  
11 Bane Act violations and public nuisance described in this Complaint.

#### 12 **JURISDICTION AND VENUE**

13 (11) Against Defendant PALOS VERDES ESTATES and Defendant  
14 Kepley, this Court has original jurisdiction under 42 U.S.C. § 1983. Against  
15 Defendants LUNADA BAY BOYS and certain Individual Defendants, this  
16 Court has original jurisdiction under 28 U.S.C. § 1333, and Article III, § 2 of  
17 the U.S. Constitution. *See Davis v. City of Jacksonville Beach*, 251 F.Supp.  
18 327 (MD Fla. 1965) (surfboard hitting swimmer in ocean falls under  
19 admiralty jurisdiction).

20 (12) This Court has supplemental jurisdiction for claims brought under  
21 California law that arise from the same nucleus of operative facts predicated  
22 upon 28 U.S.C. § 1367.

23 (13) The Court may grant declaratory and other relief pursuant to 28  
24 U.S.C. §§ 2201 and 2202. Money damages alone are inadequate, and  
25 Plaintiffs and class members suffer and will continue to suffer irreparable  
26 injury.

27 (14) All action complained of herein takes place within the jurisdiction  
28 of the United States District Court, Central District of California and venue is

invoked under 28 U.S.C. § 1391(b), (c).

### **STATEMENT OF FACTS**

(15) Incorporated in 1939, Defendant PALOS VERDES ESTATES is a city of approximately 13,500 residents. Its median household income is more than \$170,000. The City's natural beauty is a unique respite from nearby Long Beach, Los Angeles, and the other Los Angeles industrialized and flatland communities. Protected by more than 40 police personnel,<sup>1</sup> residents enjoy the rugged ocean-cliff views, parklands, pathways, magnificent views of the Los Angeles Basin and Pacific Ocean, low density, rural character, and preserved open space. The beaches, shoreline, and surfing areas along the Palos Verdes Estates coastline are open to the public. But the police department of PALOS VERDES ESTATES has a long history of deliberate indifference in not investigating or otherwise policing acts of violence and vandalism against visiting beachgoers. For many decades, victims of the LUNADA BAY BOYS have complained to Defendant PALOS VERDES ESTATES police and city officials. The response is always the same: City leaders acknowledge the problem, promise to do something, and then do little or nothing. DEFENDANT PALOS VERDES ESTATES' complicity, custom, policy, and deliberate indifference amounts to illegal municipal exclusivity. Defendant PALOS VERDES ESTATES' police force tolerates the unlawful activity of the LUNADA BAY BOYS against non-local beachgoers because the 40-member police force is designed to keep PALOS VERDES ESTATES for locals only. Along with the DEFENDANT LUNADA BAY BOYS and the Individual Defendants, Defendant PALOS

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<sup>1</sup> In 2014, Palos Verdes Estates employed 3 different chiefs, 4 sergeants, 2 captains, 3 corporals, 12 officers, 9 reserve officers, 1 traffic control officer, 9 service officers, 1 police intern, and 1 police cadet.

1 VERDES ESTATES considers non-residents “riffraff.” Moreover, because of  
2 Defendant PALOS VERDES ESTATES’ complicit approval and deliberate  
3 indifference to enforcing state, federal, and local laws in crimes committed  
4 against non-residents and other visitors, Plaintiffs and similarly situated  
5 beachgoers suffer exclusion from the city’s public parks, beaches, and  
6 waters, and do not enjoy equal access to the city’s public parks, beaches,  
7 waters, and surf in the area.

8 (16) Lunada Bay is a rugged bay located on the northwest tip of the  
9 Palos Verdes Peninsula in the City of Palos Verdes Estates – between  
10 Resort Point on the south, and Palos Verdes Point on the north. It has been  
11 described as “a gleaming stretch of polished pewter spotlighted by large  
12 areas of sparkling silver,” its beach stones tumbled smooth by the sea  
13 nestled against its 100 foot cliffs.<sup>2</sup> The beach, surrounding bluffs, and  
14 access points are public and owned by Defendant PALOS VERDES  
15 ESTATES. By law, Lunada Bay is open to all. In reality, it is open to few.

16 (17) Beyond its beauty, Lunada Bay is Southern California’s premier  
17 big-wave break. It is also the State’s, and perhaps the surfing world’s, best-  
18 known area for localism.<sup>3</sup> Localism is a territorial practice whereby resident  
19 surfers attempt to exclude nonresident beachgoers and surfers through  
20 threats, intimidation, and violence.<sup>4</sup> “Lunada Bay in Southern California is  
21 generally recognized as the surfing world’s most localized break.”<sup>5</sup> In

22 \_\_\_\_\_  
23 <sup>2</sup> See, Michael Goodman, Los Angeles Magazine, Palos Verdes Surf Wars  
24 (June 1996, Vol. 41, No. 6). See also, Exhibits 2, 3, & 4.

25 <sup>3</sup> See, Warshaw, Matt, *The Encyclopedia of Surfing*, p. 445 (2003);  
26 Warshaw, Matt, *The History of Surfing*, p. 263 (2010).

27 <sup>4</sup> See, Warshaw, Matt, *The Encyclopedia of Surfing*, p. 340 (2003).

28 <sup>5</sup> See, Warshaw, Matt, *The Encyclopedia of Surfing*, p. 341 (2003).

1 essence, severe localism initiated by Defendant LUNADA BAY BOYS and  
2 the Individual Defendants, combined with PALOS VERDES ESTATES'  
3 historic disinterest in investigating and prosecuting crimes against visiting  
4 beachgoers, has created a private beach on public property that denies  
5 Plaintiffs and the members of the class their state and federal constitutional  
6 rights.

7 (18) On the north side of Lunada Bay nearest Palos Verdes Point, the  
8 LUNADA BAY BOYS, its members, and the Individual Defendants have built  
9 and maintain an illegal rock-masonry-and-wood fort structure at the base of  
10 the 100 foot bluff.<sup>6</sup> LUNADA BAY BOYS and the Individual Defendants  
11 congregate here to recreate, drink beer, eat, store food, and both plan and  
12 conduct illegal activity. In the middle of Lunada Bay, LUNADA BAY BOYS  
13 and the Individual Defendants have built and maintain a steep trail down the  
14 100 foot bluff called the Goat Trail.<sup>7</sup> Next, Defendant LUNADA BAY BOYS  
15 and Individual Defendants have built a campfire ring with seating in the  
16 middle of Lunada Bay, near the base of the Goat Trail.<sup>8</sup> Further, Defendant  
17 LUNADA BAY BOYS and Individual Defendants store sea kayaks, crab  
18 pots, lobster traps, coolers, and other recreational items near the base of the  
19 Goat Trail.<sup>9</sup> On the south side of Lunada Bay, there is another trail down to  
20 Lunada Bay ("South Trail"),<sup>10</sup> and additional sea kayaks and items stored in

21 ///

22 \_\_\_\_\_  
23 <sup>6</sup> See, Exhibits 5, 6, 7, & 8.

24 <sup>7</sup> See, Exhibit 9.

25 <sup>8</sup> See, Exhibit 10.

26 <sup>9</sup> See, Exhibits 11, 12, 13, & 14.

27 <sup>10</sup> See, Exhibit 15.

1 this area.<sup>11</sup> DEFENDANT LUNADA BAY BOYS and its members frequently  
2 invoke the gang name “Bay Boys,” and upon information and belief wear  
3 inscribed clothing with the gang name “Bay Boys,” as they commit their  
4 criminal and nuisance activities. Upon information and belief, certain  
5 Individual Defendants of the gang sell market and use illegal controlled  
6 substances from the Lunada Bay bluffs and the Rock Fort. Upon  
7 information and belief, members of the gang use the gang’s name to  
8 confront, threaten, intimidate, and harass non-local beachgoers (surfers,  
9 boaters, sunbathers, fisherman, picnickers, kneeboarders, stand-up paddle  
10 boarders, boogie boarders, bodysurfers, windsurfers, kite surfers, kayakers,  
11 dog walkers, walkers, hikers, beachcombers, photographers, sightseers,  
12 etc.), and other individuals who work in, visit and pass through Palos Verdes  
13 Estates and Lunada Bay. On top of the 100-foot bluff, LUNADA BAY BOYS,  
14 its members, and the Individual Defendants intimidate visiting beachgoers  
15 with threats and taunts, by taking photos and video of beachgoers, and by  
16 congregating near the entrances to both the Goat Trail and South Trail.  
17 Upon information and belief, when out-of-town visitors arrive by boat to  
18 avoid the bluff side attacks, the LUNADA BAY BOYS impede boat traffic  
19 with threats and by circling the boats on surfboards, kneeboards, boogey  
20 boards, kayaks, rowboats, and other manual powered vessels. These  
21 vessels are operated in a dangerous and negligent manner. The LUNADA  
22 BAY BOYS enforce localism by targeting out-of-town beachgoers to prevent  
23 them from enjoying the local waters. Upon information and belief, their  
24 assaults (throwing rocks, running people over with surfboards, shoves,  
25 slaps, punches, etc.), thefts (wallets, wetsuits, and surfboards), vandalism to

26 \_\_\_\_\_  
27 <sup>11</sup> See, Exhibit 16.



1 vehicles and personal property, and threats are for the purpose of  
2 establishing a curtain of intimidation to drive out-of-area beachgoers, which  
3 they label riffraff, away from the coastal area of Lunada Bay. Indeed, upon  
4 information and belief, since the early 1970s, visiting surfers and other  
5 beachgoers have had rocks thrown at them while walking down the 100-foot  
6 cliff-side Lunada trails, have been shot by pellet guns, have returned to find  
7 their car windows waxed with the word “kook” or windows broken, their tires  
8 slashed or air let out, barefoot trails covered in glass, property stolen  
9 (wallets, wetsuits, surfboards), and beach towels, backpacks, and bags  
10 dumped in the water. In the water, the LUNADA BAY BOYS dangerously  
11 disregard surfing rules when it comes to visitors, threaten visitors with  
12 violence,<sup>12</sup> run over visitors with their surfboards, push visitors, hit visitors,  
13 slap visitors, harass visitors by circling them, and hold visitors underwater.  
14 Upon information and belief, the LUNADA BAY BOYS have posted a  
15 discrete municipal-style sign at the top of the bluff that stated “Unlocals Will  
16 Be Hassled.” Upon information and belief, members of the LUNADA BAY  
17 BOYS coordinate their attacks on visitors by sharing photographs and video  
18 that they take of visitors, monitoring police and fire radios to learn if the  
19 police may start to enforce the laws or visit the bluff, communicating via  
20 walkie talkies, text message group chats, email, mobile phones, and other  
21 electronic devices.<sup>13</sup>

22

23

24 <sup>12</sup> See, e.g., police reports from January 21, 2014, November 15, 2014,  
25 July 31, 2015, and August 24, 2015, attached as Exhibit 17, describing non-  
26 residents’ complaints of assault, vandalism, and criminal threats by the  
27 LUNADA BAY BOYS.

26

27 <sup>13</sup> See, Warshaw, Matt, *The Encyclopedia of Surfing* (2003); *Surfer*  
28 *Magazines Guide to Southern California Surf Spots*, pp. 92-96 (2006).

28

1 (19) On or about May 2015, a reporter, Rory Carroll and his friend  
2 Noah Smith went to Lunada Bay with a hidden video to document their  
3 experience. The video shows what happened to these to individuals as they  
4 approached the beach on this particular day. One of the LUNADA BAY  
5 BOYS, who Plaintiffs contend on information and belief, is Defendant Sang  
6 Lee. Defendant Lee made the following comments to Carrol and Smith:<sup>14</sup>

7 i. "You shouldn't fucking come down here. Stay away from  
8 this area, this bay right here."

9 ii. "The Reason there's a lot of space is because we keep it  
10 like that. We fucking hassle people."

11 iii. "We'll burn you every single wave."

12 iv. "There's still fights down here. People will just fucking duke  
13 it out, fucking work your car and get in fights."  
14  
15

16 (20) After receiving the harassment and threats from the LUNADA  
17 BAY BOYS, Rory Carrol and his friend reported the incident to the City of  
18 Palos Verdes Police Department.<sup>15</sup> In response to their report, the following  
19 comment was made by a Defendant PALOS VERDES ESTATE officer,  
20 transcribed in the video as follows:<sup>16</sup> Officer: "We know all of them. They  
21 are infamous around here. They are pretty much grown men in little men's  
22 \_\_\_\_\_

23 <sup>14</sup> The video can be viewed at [http://www.theinertia.com/surf/palos-verdes-](http://www.theinertia.com/surf/palos-verdes-police-respond-to-lunada-bay-localism/)  
24 [police-respond-to-lunada-bay-localism/](http://www.theinertia.com/surf/palos-verdes-police-respond-to-lunada-bay-localism/)

25 <sup>15</sup> [http://www.theinertia.com/surf/palos-verdes-police-respond-to-lunada-](http://www.theinertia.com/surf/palos-verdes-police-respond-to-lunada-bay-localism/)  
26 [bay-localism/](http://www.theinertia.com/surf/palos-verdes-police-respond-to-lunada-bay-localism/)

27 <sup>16</sup> [http://www.theinertia.com/surf/palos-verdes-police-respond-to-lunada-](http://www.theinertia.com/surf/palos-verdes-police-respond-to-lunada-bay-localism/)  
28 [bay-localism/](http://www.theinertia.com/surf/palos-verdes-police-respond-to-lunada-bay-localism/)

1 mindset. They don't like anyone that's not one of The Bay Boys, surfing  
2 down there. It literally is like a game with kids on a school yard to them and  
3 they don't want you playing on their swing set, but, you know, it is what it is.  
4 If you feel uncomfortable, you know, then don't do it."<sup>17</sup>

5 (21) Plaintiff Spencer has worked as a police officer for the City of  
6 Los Angeles Police Department in the South Central Division. Presently, he  
7 works as a police officer for the City of El Segundo. For more than 30 years,  
8 he has wanted to surf the waves off the coast of the City of Palos Verdes  
9 Estates – specifically Lunada Bay. But Spencer – who has worked gang-  
10 infested neighborhoods in the toughest parts of Los Angeles – had avoided  
11 Palos Verdes Estates' Lunada Bay because of fear, intimidation, vandalism,  
12 and Lunada Bay's well-known reputation for violence and beach localism.  
13 But in January 2016, Spencer worked up his courage to surf Lunada Bay  
14 during a large winter swell. To surf Lunada Bay, even though Palos Verdes  
15 Estates is an exclusive community with more than 40 police personnel,  
16 Spencer and other surfers had to pay a security guard \$100 to watch their  
17 vehicles to protect the vehicles from vandalism while they surfed. Upon  
18 arrival, members of the Defendant LUNADA BAY BOYS told him "you can't  
19 surf here kook."<sup>18</sup> Once in the water, on his second wave at Lunada Bay, a  
20 member of Defendant LUNADA BAY BOYS intentionally ran Spencer over  
21 with his surfboard and sliced open Spencer's hand. In February, Spencer  
22 returned a second time with Jordan Wright and others to observe and watch  
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24 <sup>17</sup> [http://www.theinertia.com/surf/palos-verdes-police-respond-to-lunada-](http://www.theinertia.com/surf/palos-verdes-police-respond-to-lunada-bay-localism/)  
25 [bay-localism/](http://www.theinertia.com/surf/palos-verdes-police-respond-to-lunada-bay-localism/)

26 <sup>18</sup> The word "kook" is a derogatory surfing term, generally applied to the  
27 rank beginners or any surfer thought to be in violation of surfing's codes.  
28 See, Warshaw, Matt, *The Encyclopedia of Surfing* (2003).

1 the outsiders' cars parked on the bluff. Spencer observed Defendant  
2 LUNADA BAY BOYS threaten and taunt surfers. Spencer has complained  
3 to PALOS VERDES ESTATES police officers. Later, on March 4, 2014,  
4 Spencer wrote to Defendant Chief of Police Kepley and encouraged an  
5 undercover investigation. Upon information and belief, Defendant Chief of  
6 Police Kepley did not take the complaint seriously and took no action. He  
7 said that they have considered various enforcement strategies. And, he  
8 said: "I have been down the patio on several occasions and talked with  
9 various surfers in an effort to educate them on the position we are all in, and  
10 what needs to change in terms of acceptable behavior on their part." That's  
11 it. Defendants' conduct has caused Spencer pain and suffering, loss of  
12 sleep, emotional distress, and mental anguish.

13 (22) On January 29, 2016, Plaintiff Diana Milena Reed, who is an  
14 aspiring big wave surfer, wanted to paddle out to experience the large  
15 waves found off Lunada Bay. She was accompanied by her friend Jordan  
16 Wright. Reed and Wright encountered members of the LUNADA BAY  
17 BOYS who screamed profanities at them and said words to the effect "you  
18 can't surf here." As Reed and Wright made their way down the trail, they  
19 were approached by a short, 45-50-year old man who yelled various  
20 profanities and insults at them. Reed was extremely frightened and felt  
21 endangered and in fear of assault. Never in her life had she been screamed  
22 and yelled at in such a manner. The man called her a whore. A group of  
23 men were watching, along with police in the distance. PALOS VERDES  
24 ESTATES police witnessed the harassment, but rather than take action,  
25 they approached Reed after the incident asked whether Reed and Wright

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1 would like to make a "citizen's arrest."<sup>19</sup> Reed declined to make the arrest  
2 and instead chose to file a report, having been assured by the police that the  
3 case would be handled by the District Attorney with the same result. Reed  
4 was surprised that the police did not arrest the man, especially because they  
5 had witnessed the incident.

6 (23) On or about February 5, 2016, Reed and Wright returned to  
7 Lunada Bay with a photographer and writer from *The Los Angeles Times*.  
8 There were no other surfers at Lunada Bay that day. Subsequently, the *Los*  
9 *Angeles Times* printed a newspaper story on February 13, 2016, that  
10 contained several photographs of Reed, including one that showed her in  
11 "the locals hangout fort" and stated that she was an "outsider" who had filed  
12 a police report for harassment against the LUNADA BAY BOYS. The  
13 newspaper reported that LUNADA BAY BOYS "bombard outsiders with dirt  
14 clods, slash their car tires, and assault them in the water – sometimes  
15 coordinating the attacks with walkie talkies... Surfers who say they have  
16 been victimized over the years have accused local authorities of  
17 complacency, cowardice, and even complicity."<sup>20</sup>

18 \_\_\_\_\_  
19 <sup>19</sup> Citizens' arrests are permitted under California Penal Code § 837. It is a  
20 process whereby a person who is not acting as a sworn law-enforcement  
21 official may arrest a person who committed a crime. The citizen tells the  
22 offender that she is making a "citizen's arrest" and that she is holding him  
23 until police have arrived. Here, PALOS VERDES ESTATES unreasonably  
24 asked Reed to detain a known gang member – with other members of the  
25 LUNADA BAY BOYS nearby – when police were already on the scene.

26 <sup>20</sup> Garrett Therolf, *'Bay Boys' surfer gang cannot block access to upscale*  
27 *beach, Coastal Commission says*, L.A. Times, Feb. 12, 2016.  
28 (<http://www.latimes.com/local/california/la-me-surfer-gang-enforcement-20160211-story.html>). Defendants allege based on information and belief that this story was first published online on February 11, 2016, may have been revised on February 12, 2016, and was printed on February 13, 2016.



1 (24) Reed and Wright returned to Lunada Bay on February 13, 2016.  
2 While walking across Lunada Beach to the fort, LUNADA BAY BOYS called  
3 her a “bitch” and told “fuck you” and “you are a liar” – in reference to the *Los*  
4 *Angeles Times* article which had been printed that day. Reed was also told  
5 to “keep walking.” After arriving at the fort, Reed was approached by a  
6 brown-haired man in his late 40s or early 50s. The man started asking her  
7 various questions, including why she was there, what was her motivation,  
8 and what was her mission objective. The man told her that the LUNADA  
9 BAY BOYS were mad at her. Reed told the man that she was simply there  
10 to take photos of Wright and to watch him surf and enjoy the beach. The  
11 man eventually left the fort.

12 (25) About two hours later, certain Individual Defendants  
13 approached Reed with a case of beer and feigned celebration of the *Los*  
14 *Angeles Times* article. But they blamed Reed for unwanted attention the  
15 article brought upon the LUNADA BAY BOYS and PALOS VERDES  
16 ESTATES. In an attempt to intimidate Reed, the Individual Defendants,  
17 including Brant Blakeman and Jalian Johnston, asked Reed to drink with  
18 them. When she declined, Johnston shook up a can of beer and sprayed  
19 Reed and her camera with it, and poured beer on Reed’s arm. They filmed  
20 the incident. Reed asked them to stop filming her. They told her they  
21 thought she was “sexy,” and filmed her while they told her she “excited  
22 them.” Defendant Johnston then made comments about his penis, stating  
23 that it was big enough to “get the job done,” and he rubbed his torso and  
24 belly in a sexually-suggestive manner, telling Reed that she made him  
25 “excited” and “hard,” which made it easier for him to get into his wetsuit.  
26 Defendant Johnston briefly exposed himself to Reed while he was changing  
27 into his wetsuit before Reed quickly turned away. Defendant Charlie Ferrara  
28 witnessed the entire event from the roof of the fort. Reed attempted to

1 contact the police from her cell phone during the incident but was unable to  
2 obtain a signal. Reed had requested a police escort to the beach upon her  
3 arrival at Lunada Bay earlier that day because of her previous experiences  
4 but the police refused her request.

5 (26) After walking back up the cliff following this incident, Reed was in  
6 tears and visibly upset. Reed saw a police officer sitting inside a patrol car  
7 on the side of the road. The officer was completely unaware of the events  
8 occurring below the cliff in the fort and on the beach. Reed complained to  
9 Defendant PALOS VERDES ESTATES and told the police officer what  
10 happened. The police officer proceeded to take Reed's information. After  
11 approximately 30 minutes, the police officer walked down the cliff with Reed  
12 but the LUNADA BAY BOY aggressors were gone. Only Defendant Charlie  
13 Ferrara remained, but he refused to cooperate with the police and told them  
14 he did not see anything, though he apologized to Reed.

15 (27) PALOS VERDES ESTATES initially attempted to investigate the  
16 incident. A police officer identified the man who was videoing her as  
17 LUNADA BAY BOY Individual Member and Defendant Brant Blakeman, a  
18 local resident who owns a home in Palos Verdes Estates. The PALOS  
19 VERDES ESTATES police officer then offered to allow Reed to identify the  
20 other men from photos that the police kept on all the members of LUNADA  
21 BAY BOYS. But ultimately, PALOS VERDES ESTATES police showed no  
22 interest or ability in following up on Reed's complaint. They would not  
23 commit to a date to identify the other member of the LUNADA BAY BOYS  
24 who poured beer on her, and exposed himself to her, or other Individual  
25 Defendants who had harassed her. Indeed, PALOS VERDES ESTATES  
26 police detective Venegas said words to the effect, "Why would a woman  
27 want to go to that beach and the Rock Fort anyways? There are only rocks  
28 down there." When PALOS VERDES ESTATES failed to return Reed's calls

1 to set a time to identify the LUNADA BAY BOY member who poured beer on  
2 her and exposed himself to her, as well as identify the other Individual  
3 Defendants who had harassed her, she had her lawyer write a letter on  
4 March 10, 2016. Defendant PALOS VERDES ESTATES finally agreed to a  
5 meeting on March 21, 2016, in which Reed and her lawyer met with  
6 Defendant Chief of Police Kepley and Captain Tony Best. Defendant Chief  
7 of Police Kepley and Captain Best were friendly and respectful. But it  
8 appeared that Chief Kepley and Captain Best knew little about Reed's  
9 complaint and the incident; and they claimed that while they had  
10 photographs of the LUNADA BAY BOYS members, they would not permit  
11 Reed to review their photos so she could identify the man that assaulted her  
12 in the Rock Fort, stating only that they would speak to the detective in  
13 charge of the investigation. Defendant Kepley said words to the effect that  
14 there was "little we can do because we only have 25 full-time POST<sup>21</sup>  
15 certified staff," and that PALOS VERDES ESTATES could only afford to  
16 send two officers at a time to inspect Lunada Bay. While cell phones do not  
17 work well at the Rock Fort, Defendant Chief of Police Kepley and Captain  
18 Best encouraged Reed to carry a cell phone and travel in large groups.  
19 Captain Best stated that there are judges and lawyers that surf out there" –  
20 the implication being that made the situation even more difficult to remedy.  
21 Reed asked Defendant Chief Kepley: "Is it safe for me to go down there?"  
22 Defendant Chief Kepley responded with the following: "I wish it was safe,  
23 but it's not. I wouldn't even tell a man to go down there." Defendant Chief  
24 Kepley also said words to the effect, "If I could fix this, I would. I view this as

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<sup>21</sup> POST is an acronym for "Police Officer Standards and Training." It is a minimum educational requirement for law enforcement officers.

1 a long term problem.” The conduct of Defendants has caused Reed pain  
2 and suffering, loss of sleep, emotional distress, and mental anguish.

3 (28) With more than 40 police personnel and its own jail, PALOS  
4 VERDES ESTATES is aware of the LUNADA BAY BOYS’ criminal activity  
5 against visiting beachgoers, but has a policy, custom, and practice of taking  
6 no action when it involves the LUNADA BAY BOYS and the Individual  
7 Defendants.

8 (29) Upon information and belief, over the last 40 years, Plaintiffs  
9 estimate that several hundreds of beachgoers have attempted to recreate in  
10 and near Lunada Bay, and like Spencer and Reed, all have suffered similar  
11 encounters with Defendants. Upon information and belief, these persons  
12 have suffered loss of sleep, emotional distress, and mental anguish.  
13 Moreover, upon information and belief, many thousands of beachgoers want  
14 to visit Lunada Bay to enjoy its beauty and recreational activities but are  
15 afraid to do so because of Defendants’ conduct.

16 **CLASS ACTION ALLEGATIONS**

17 (30) Plaintiffs seek to maintain this action as a class action under  
18 Rule 23(b)(2) and/or Rule 23(b)(3) of the Federal Rules of Civil Procedure.  
19 The class consists of all visiting beachgoers to Lunada Bay who do not live  
20 in Palos Verdes Estates, as well as those who have been deterred from  
21 visiting Lunada Bay because of the LUNADA BAY BOYS’ actions, the  
22 Individual Defendants’ actions, PALOS VERDES ESTATES’ action and  
23 inaction, and Defendant Chief of Police Kepley’s action and inaction, and  
24 subsequently denied during the liability period, or are currently being denied,  
25 on the basis of them living outside of Palos Verdes Estates, full and equal  
26 enjoyment of rights under the state and federal constitution, to services,  
27 facilities, privileges, advantages, or recreational opportunities at Lunada  
28 Bay. For purposes of the class, visiting beachgoers includes persons who



1 do not reside in the City of Palos Verdes Estates, and who are not members  
2 of the LUNADA BAY BOYS, but want lawful, safe, and secure access to  
3 Lunada Bay to engage in recreational activities, including, but not limited to  
4 surfers, boaters, sunbathers, fisherman, picnickers, kneeboarders, stand-up  
5 paddle boarders, boogie boarders, bodysurfers, windsurfers, kite surfers,  
6 kayakers, dog walkers, walkers, hikers, beachcombers, photographers, and  
7 sightseers.

8 (31) The class identified in paragraph 30 is believed to consist of at  
9 least several thousand members who are dispersed across the State of  
10 California, as well outside California. Joinder of all of such class members in  
11 this lawsuit is impracticable.

12 (32) The Plaintiffs will fairly and adequately protect the interests of the  
13 class because they have retained counsel with extensive experience in  
14 litigation, including class action litigation, and because Plaintiffs have no  
15 interests that conflict in any way with those of the class.

16 (33) There are numerous questions of law and fact common to the  
17 class, including without limitation, the following:

18 a. Whether LUNADA BAY BOYS is a criminal street gang as  
19 defined in Penal Code § 186.22, subdivision (f).

20 b. Whether LUNADA BAY BOYS was, and at all times  
21 mentioned herein is, also an unincorporated association within the meaning  
22 of Corporations Code § 18035, subdivision (a).

23 c. Whether the Individual Defendants are members or  
24 associated with LUNADA BAY BOYS.

25 d. Whether the LUNADA BAY BOYS individually or  
26 collectively, engage in or have engaged in a pattern of criminal gang activity,  
27 and has as one of its primary activities the commission of enumerated  
28 "predicate crimes," including but not limited to assault, battery, vandalism,



1 intimidation, harassment, and extortion, and, on information and belief, the  
2 sale and use of illegal controlled substances.

3 e. Whether the LUNADA BAY BOYS, through unlawful  
4 conduct, have claimed the Lunada Bay area as their "turf" and attempt to  
5 unlawfully dissuade beachgoers that live outside of Palos Verdes Estates  
6 from recreating in the park, bluff, beach, and ocean areas in and around  
7 Lunada Bay.

8 f. Whether the LUNADA BAY BOYS individually or  
9 collectively, have been negligent in their operation of surfboards, boats, and  
10 other vessels in the navigable waters of Lunada Bay.

11 g. Whether LUNADA BAY BOYS, and the Individual  
12 Defendants, have built and maintain the illegal Rock Fort at the base of the  
13 100-foot bluff of Lunada Bay.

14 h. Whether LUNADA BAY BOYS, and the Individual  
15 Defendants, have built and maintain illegal trails down the 100 foot bluff of  
16 Lunada Bay.

17 i. Whether LUNADA BAY BOYS, and the Individual  
18 Defendants, have illegal fires, illegally store boats and fishing equipment,  
19 and illegally drink alcohol in Lunada Bay.

20 j. Whether the LUNADA BAY BOYS, and the Individual  
21 Defendants, have illegally extorted money from beachgoers who wish to use  
22 Lunada Bay for recreational purposes.

23 k. Whether the LUNADA BAY BOYS, and the Individual  
24 Defendants, have civilly conspired in their intimidating threats, and follow  
25 through on these threats.

26 l. Whether the beaches, shoreline, bluff, park, street, and  
27 surfing areas in Palos Verdes Estates, specifically Lunada Bay, are open to  
28 the public.

1 m. Whether the beaches, shoreline, bluff, park, street, and  
2 surfing areas along Lunada Bay are owned by PALOS VERDES ESTATES.

3 n. Whether, acting under color of law, by its policies,  
4 customs, and/or longstanding practices, and in deliberate indifference  
5 towards Plaintiffs' rights under state and federal law, PALOS VERDES  
6 ESTATES has, under the laws of the United States and/or the United States  
7 Constitution, unlawfully excluded Plaintiffs, and persons like them, from their  
8 right to recreational opportunities at Palos Verdes Estates' parks, beaches,  
9 and access to the ocean.

10 o. Whether Defendant Chief of Police Kepley had final policy-  
11 making authority from PALOS VERDES ESTATES concerning  
12 investigations and policing activities related non-resident beachgoer  
13 complaints against LUNADA BAY BOYS, and the Individual Defendants.

14 p. Whether in his representative capacity, Defendant Chief of  
15 Police Kepley has failed to enforce the State's laws when it comes to crimes  
16 committed by Defendant LUNADA BAY BOYS against visiting non-resident  
17 beachgoers.

18 (34) The Plaintiffs' claims are typical of the claims of the members of  
19 the class. Like all other members of the class, Plaintiffs are beachgoers who  
20 do not reside in Palos Verdes Estates who want to safely visit the Lunada  
21 Bay area. Plaintiffs desire to lawfully use the Lunada Bay Area for  
22 recreational purposes, free from the assault, battery, vandalism, intimidation,  
23 harassment, and extortion by LUNADA BAY BOYS and the Individual  
24 Defendants.

25 (35) The Plaintiffs' claims are typical of the claims of the members of  
26 the class. Like all other members of the class, Plaintiffs are beachgoers who  
27 desire requisite permitting of the Rock Fort and bluff trails to Lunada Bay by  
28 the California Coastal Commission, in addition to any other equitable relief

1 appropriate to ensure access to Lunada Bay, which may include improved  
2 trails, restrooms, parking, lighting, and the installation of 24-hour video  
3 cameras.

4 (36) The Plaintiffs' claims are typical of the claims of the members of  
5 the class. Like all other members of the class, Plaintiffs are beachgoers who  
6 desire PALOS VERDES ESTATES and Chief of Police Kepley to investigate  
7 and prosecute crimes committed by the LUNADA BAY BOYS and/or the  
8 Individual Defendants against non-resident beachgoers.

9 (37) This action may be maintained as a class action pursuant to  
10 Rule 23(b)(2) because Defendants' unlawful activity is applicable to all  
11 members of the class. Therefore, an injunction requiring compliance with  
12 state and federal law is appropriate – namely access to Lunada Bay for  
13 recreational purposes – and the primary relief sought is injunctive relief.

14 (38) This action may be maintained as a class action pursuant to  
15 Rule 23(b)(3) because the many questions of law and fact that are common  
16 to class members clearly predominate over individual questions affecting  
17 members of the class. The common issues of law and fact relate to issues  
18 central to the case, such as whether LUNADA BAY BOYS and PALOS  
19 VERDES ESTATES have unlawfully denied members of the class full and  
20 equal access to the coast, and to recreate in Lunada Bay, as well as  
21 whether Defendants maintain longstanding customs, policies and practices  
22 and other measures intended to deny non-resident beachgoers full and  
23 equal access to Lunada Bay and the surrounding areas, as provided by the  
24 state and federal constitutions and laws.

25 (39) Judicial economy will be served by maintenance of this lawsuit  
26 as a class action in that it is likely to avoid the burden that would be  
27 otherwise placed upon the judicial system by the filing of numerous similar  
28 suits by beachgoers who have been denied full and equal access to Lunada

1 Bay.

2 (40) Maintaining this lawsuit as a class action will also avoid the risk  
3 of inconsistent outcomes if class members were forced to bring individual  
4 actions in various forums.

5 (41) There are no obstacles to effective and efficient management of  
6 this lawsuit as a class action by this Court.

7 (42) Plaintiffs contemplate notice to the class by news media  
8 publication, including (1) social networking sites, such as Facebook and  
9 Twitter, (2) ocean-oriented Internet sites such as Surfline.com,  
10 Magicseaweed.com, Surfingmagazine.com, Surfermagazine.com,  
11 Worldsurfleague.com, Surfertoday.com, and Sufersjournal.com; (3) a  
12 California newspaper such as *The Los Angeles Times*; and (4) a  
13 coordinated email campaign with a non-profit ocean advocacy group such  
14 as Surfrider Foundation, and Surfrider Southbay.

15 **FIRST CAUSE OF ACTION**

16 **(Bane Act – Against LUNADA BAY BOYS and the Individual**  
17 **Defendants)**

18 (43) Plaintiffs repeat, re-allege and incorporate herein by this  
19 reference each and every allegation contained in Paragraphs 1 through 42,  
20 inclusive.

21 (44) In addition to being personally victimized by Defendants' crimes  
22 and other gang-related activities, Plaintiffs, and the class members, have  
23 observed violent crimes committed against others. Throughout the Lunada  
24 Bay area, Defendants' members not only confront and attack other beach-  
25 going class members, but also confront, threaten to kill, assault, vandalize  
26 property, extort, and bring harm to other persons who live in, work in, or  
27 pass through the Lunada Bay area. Defendants' criminal and other gang-  
28 related activities against visiting beachgoers to Lunada Bay violates the

1 Bane Act. Defendants' activities create a threatening and intimidating  
2 atmosphere for visiting beachgoers, and therefore, infringe upon their  
3 constitutional right to recreate on California's public beaches.

4 (45) Defendants' activities attempt to interfere with and do interfere  
5 with Plaintiffs' and class members' constitutional rights by creating a  
6 dangerous, threatening, and intimidating environment in the Lunada Bay  
7 area. Their conduct brings potential and actual harm to the Lunada Bay  
8 area, and to the visiting beachgoers that would like to visit.

9 (46) Throughout the Lunada Bay area, Defendants, individually,  
10 collectively, and in concert, also vandalize public and private property, sell  
11 and use narcotics, loiter, and drink alcohol on the beach and bluff. These  
12 activities occur throughout the day and evening. Such activities create and  
13 foster an atmosphere of fear and intimidation. Out of fear for their safety  
14 and lives, Plaintiffs and many other visiting beachgoers travel to and from  
15 Lunada Bay in groups, rather than alone, in an effort to decrease the  
16 likelihood of becoming a victim of a gang attack. Defendants by their  
17 threatening, intimidating and coercive actions have attempted to interfere  
18 with, and do interfere with the constitutional rights of Plaintiffs and class  
19 members.

20 (47) To perpetuate their desire to unlawfully intimidate Plaintiffs and  
21 members of the class from lawfully using Lunada Bay, Defendants  
22 coordinate their efforts using lookouts, by yelling, signaling, whistling, and  
23 use of cell phones. Moreover, Defendants monitor police and fire radios, in  
24 addition to the lookouts, to warn each other of approaching law enforcement.

25 (48) Under the Bane Act (Cal. Civ. Code § 52.1(b)), any person  
26 whose exercise or enjoyment of the rights secured by the California  
27 Constitution, or the United States Constitution, has been interfered with, or  
28 attempted to be interfered with, may institute a civil action for damages,



1 injunctive relief, and other appropriate equitable relief to protect the  
2 peaceable exercise and enjoyment of rights.

3 (49) Plaintiffs and the class members have no plain, speedy, or  
4 adequate remedy at law. Many victims and witness to criminal activities  
5 committed by LUNADA BAY BOYS feel the gang's constant, pervasive, and  
6 menacing presence in Lunada Bay, and thus refuse to cooperate with law  
7 enforcement. Defendants threaten basic public order with their oppressive  
8 and widespread witness intimidation. Traditional law enforcement methods  
9 and criminal prosecution has not deterred Defendants from pursuing their  
10 criminal activities, and Plaintiffs and other visiting beachgoers to Lunada Bay  
11 are at continued risk to their safety, lives and property.

12 (50) Unless restrained by this Court, Defendant LUNADA BAY BOYS  
13 acting through their respective membership, will continue to violate the rights  
14 of Plaintiffs and members of the class, as protected by the Bane Act. Unless  
15 restrained by this Court, Defendant LUNADA BAY BOYS will continue to  
16 harass, attack, injure, and threaten visiting beachgoers to Lunada Bay.  
17 Unless restrained by this Court, Defendant LUNADA BAY BOYS will  
18 continue to intimidate visiting beachgoers from reporting and prosecuting  
19 criminal activities committed by LUNADA BAY BOYS. Unless restrained by  
20 this Court, Defendants will continue to build and maintain illegal structures in  
21 Lunada Bay, and vandalize visiting beachgoer property. Unless restrained  
22 by this Court, LUNADA BAY BOYS gang members will continue to engage  
23 in violent activities in Lunada Bay area. Unless restrained by this Court,  
24 Defendant LUNADA BAY BOYS gang members will continue to drink in  
25 public. Unless restrained by this Court, members of Defendant LUNADA  
26 BAY BOYS gang will continue to loiter in the Lunada Bay area, blocking  
27 Plaintiffs and the class of beachgoers from using the trails to gain ocean  
28 access to Lunada Bay. Unless restrained by this Court, Defendant LUNADA

1 BAY BOYS will continue to threaten, intimidate, and coerce Plaintiffs and the  
2 visiting beach-going class so that they will not exercise their state and  
3 federal rights to recreate in Lunada Bay, in a peaceful, safe, and secure  
4 environment.

5 WHEREFORE, Plaintiffs pray for relief as set forth below.

6 **CIVIL CONSPIRACY ALLEGATIONS**

7 (51) Plaintiffs repeat, re-allege and incorporate herein by this  
8 reference each and every allegation contained in Paragraphs 1 through 50,  
9 inclusive.

10 (52) Defendant LUNADA BAY BOYS is a criminal gang whose  
11 members are primarily engaged in criminal and nuisance activities which  
12 constitute Bane Act violations and a public nuisance. Defendants' members  
13 regularly confront, attack, harass and assault people attempting to access  
14 the beach, but also confront, threaten to kill, assault, vandalize property,  
15 extort, and bring harm to other persons who live in, work in, or pass through  
16 the Lunada Bay area for the primary purpose of preventing those people  
17 from accessing the beach area and for the purpose of committing torts and  
18 other wrongs on them. Defendants' criminal and other gang-related  
19 activities against visiting beachgoers to Lunada Bay violates the Bane Act  
20 and other laws. Defendants' activities create a threatening and intimidating  
21 atmosphere for visiting beachgoers, and therefore, infringe upon their rights  
22 constitutional right to recreate on California's public beaches.

23 (53) Each Individual Member of LUNADA BAY BOYS is aware that  
24 people attempting to access the beach at Lunada Bay will be confronted,  
25 attacked, harassed, assaulted by other LUNADA BAY BOY Individual  
26 Members.

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**SECOND CAUSE OF ACTION**

**(Public Nuisance - LUNADA BAY BOYS and the Individual Defendants)**

(54) Plaintiffs repeat, re-allege and incorporate herein by this reference each and every allegation contained in Paragraphs 1 through 53, inclusive.

(55) The activities of Defendants the LUNADA BAY BOYS, acting through their respective members, and the Individual Defendants, constitute a public nuisance pursuant to Civil Code sections 3479 and 3480. Defendants, individually, collectively, and in concert, confront, threaten to kill, assault, vandalize public and private property, extort, loiter, drink alcohol in public areas and bring harm to other persons who work in, visit or pass through the Lunada Bay area. In addition, Defendants' activities obstruct the free passage and use of the public park and ocean access.

(56) Many of the acts committed by Defendants, individually, collectively, and in concert, constitute a nuisance per se. The City of Palos Verdes Estates Municipal Code ("PVE Code") section 8.48.015 provides that any violation of Title 8, Health and Safety, Title 12, Streets, Sidewalks and Public Places, Title 15, Building and Construction, and Title 19, Coastal Regulations, is declared a public nuisance per se and may be abated as such. Defendants, individually, collectively, and in concert, have committed numerous PVE Code violations including, but not limited to, the following: smoking in undeveloped public place (PVE Code section 8.56.020); erecting, placing, constructing, establishing, or maintaining any structure or object on public property without a permit (PVE Code section 12.04.020); making or causing to be made any excavation, cut, or fill in any public place in the city without a permit (PVE Code section 12.12.020); violating city rules and regulations governing use and enjoyment by the public of any park or grounds (PVE Code section 12.24.020); disorderly conduct in parkland,

1 including but not limited to disrobing, urinating, displaying any lewd act, and  
2 throwing stones, in any park or grounds (PVE Code section 12.24.100);  
3 violating of building codes (PVE Code section 15.08.130); and failing to  
4 obtain a coastal development permit (PVE Code section 19.020.030).

5 (57) In addition to these PVE Code violations, Defendants,  
6 individually, collectively, and in concert, obstruct the free passage and use,  
7 in the customary manner, of a navigable bay and public park, which is  
8 deemed a public nuisance per se under Civil Code section 3479.

9 (58) Defendants, individually, collectively, and in concert, annoy,  
10 harass, and confront individuals who live in, work in, and pass through  
11 Lunada Bay area, causing victims to fear for their safety and the safety of  
12 their families and friends. Because of Defendants' criminal and nuisance  
13 activities, law-abiding people are forced to avoid the Lunada Bay area and  
14 parklands, to avoid being confronted, harassed, or assaulted.  
15 Consequently, Defendants' behavior is injurious to the health, is indecent  
16 and is offensive to the sense and interferes with the free use and  
17 comfortable enjoyment of life and property by the people in the Lunada Bay  
18 area.

19 (59) Defendants, individually, collectively, and in concert, proclaim  
20 their ownership of the Lunada Bay area by coordinating their efforts to  
21 prevent public access by using lookouts, yelling, signaling, whistling, and cell  
22 phones. Defendants' activity intimidates and dissuades people from  
23 speaking out and is offensive to the senses and interferes with the  
24 comfortable enjoyment of public property for those who work in, visit and  
25 travel through the Lunada Bay Area.

26 (60) Unless restrained by this Court, Defendants will continue to  
27 cause great and irreparable damage, injury, and harm the individuals who  
28 work in, visit and pass through Lunada Bay area. Unless restrained by this



1 Court, Defendants will continue to maintain the public nuisance in the  
2 Lunada Bay area, by participating in and promoting the above-described  
3 activities, including but not limited to assault, harass, threaten, intimidate,  
4 and prevent individuals who work in, visit, and pass through Lunada Bay  
5 area. Each activity has been, and will continue to be, without the consent,  
6 against the will, and in violation of the rights of the community in the Lunada  
7 Bay area. The peace, safety, and comfortable enjoyment of the life and  
8 property by the community members in the Lunada Bay area are being, and  
9 will continue to be, disturbed and threatened, unless equitable relief in the  
10 form of an injunction as prayed for against Defendants LUNADA BAY  
11 BOYS, acting through their respective members, and the Individual  
12 Defendants is granted.

13 WHEREFORE, Plaintiffs pray for relief as set forth below.

14 **THIRD CAUSE OF ACTION**  
15 **(42 U.S.C. § 1983 – Equal Protection – PALOS VERDES ESTATES and**  
16 **Defendant Chief of Police Kepley)**

17 (61) Plaintiffs repeat, re-allege and incorporate herein by this  
18 reference each and every allegation contained in Paragraphs 1 through 60,  
19 inclusive.

20 (62) By knowingly allowing the LUNADA BAY BOYS to exclude non-  
21 residents from Lunada Bay, a public beach, through violence, harassment,  
22 vandalism, threats, and intimidation, and by ignoring non-residents' and  
23 Plaintiffs' complaints of such exclusion and violence, PALOS VERDES  
24 ESTATES, as a municipality acting under color of law, has created an  
25 unlawful and irrational policy, custom, or practice of exclusion of others on  
26 the basis of their status as non-residents.

27 (63) Defendant Chief of Police Kepley, acting under color of law,  
28 enforces this fundamentally unfair policy, custom, or practice of exclusion of



1 non-residents by irrationally and arbitrarily discriminating against Plaintiffs  
2 and in favor of PALOS VERDES ESTATES and the LUNADA BAY BOYS in  
3 violation of Plaintiffs' right to equal protection of the laws.

4 (64) Defendants PALOS VERDES ESTATES and Chief of Police  
5 Kepley's acts of allowing the LUNADA BAY BOYS to threaten, intimidate,  
6 harass, and exclude non-residents from Lunada Bay bears no rational  
7 connection to public health, safety, or welfare.

8 (65) An actual controversy exists between the parties, and Plaintiffs  
9 are suffering an ongoing and irreparable harm, including loss of sleep,  
10 emotional distress, and mental anguish as a direct and proximate result of  
11 PALOS VERDES ESTATES and Defendant Chief of Police Kepley's  
12 deliberate indifference to Plaintiffs' rights under the Fourteenth Amendment.  
13 The harm will continue unless the custom, policy, or practice of exclusion is  
14 declared unlawful and enjoined by this Court.

15 WHEREFORE, Plaintiffs pray for relief as set forth below.

16 **FOURTH CAUSE OF ACTION**

17 **(42 U.S.C. § 1983 – Privileges and Immunities – PALOS VERDES**  
18 **ESTATES and Defendant Chief of Police Kepley)**

19 (66) Plaintiffs repeat, re-allege and incorporate herein by this  
20 reference each and every allegation contained in Paragraphs 1 through 65,  
21 inclusive.

22 (67) By implementing and carrying out a policy, custom or practice of  
23 prohibiting non-residents from accessing Lunada Bay, Defendants PALOS  
24 VERDES ESTATES and Chief of Police Kepley, acting under color of state  
25 law, arbitrarily and unreasonably interfere with Plaintiffs' constitutional right  
26 to enter public lands in violation of the Privileges and Immunities Clause of  
27 Article IV of the U.S. Constitution.

28 (68) Defendants PALOS VERDES ESTATES and Chief of Police

1 Kepley's policy, custom or practice of allowing the LUNADA BAY BOYS to  
2 deny non-residents access to Lunada Bay, which is public land, bears no  
3 rational connection to public health, safety, or welfare.

4 (69) An actual controversy exists between the parties, and Plaintiffs  
5 are suffering ongoing and irreparable harm, including loss of sleep,  
6 emotional distress, and mental anguish as a direct and proximate result of  
7 PALOS VERDES ESTATES and Defendant Chief of Police Kepley's  
8 deliberate indifference to Plaintiffs' rights under the Privileges and  
9 Immunities Clause of the U.S. Constitution. The harm will continue unless  
10 Defendants' policy, custom or practice of preferential treatment of residents  
11 and exclusion of non-residents is declared unlawful and enjoined by this  
12 Court.

13 WHEREFORE, Plaintiffs pray for relief as set forth below.

14 **FIFTH CAUSE OF ACTION**

15 **(Violation of California Coastal Act – All Defendants)**

16 (70) Plaintiffs repeat, re-allege and incorporate herein by this  
17 reference each and every allegation contained in Paragraphs 1 through 69,  
18 inclusive.

19 **CALIFORNIA COASTAL ACT**

20 (71) The California legislature adopted the Coastal Act in 1976 to  
21 protect and enhance California's natural and scenic coastal resources. The  
22 California Coastal Act created the California Coastal Commission (hereafter,  
23 "the Commission") in addition to an elaborate planning process to ensure  
24 that development in the "coastal zone" is consistent with and reflects the  
25 findings and declarations made by the Legislature as stated clearly in Public  
26 Resources Code Section 30001:

27 (a) That the California coastal zone is a distinct  
28 and valuable natural resource of vital and enduring

interest to all the people and exists as a delicately balanced ecosystem.

(b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.

(c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction.

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of [the Coastal Act], are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.

(72) The Coastal Act provides that the Act "shall be liberally construed to accomplish its purposes and objectives." Cal. Pub. Resources Code §30009.

(73) The "Coastal Zone" is that land specified on maps identified and set forth in section 17 of Chapter 1330 of the Statutes of 1975-1976 Regular Session enacting Division 20 of the Public Resources Code and subsequent amendments. In significant coastal estuarine, habitat, and recreational areas it extends inland to the first major ridgeline paralleling the sea of five miles from the mean high tide line of the sea, whichever is less, and in developed urban areas the zone generally extends inland less than 1,000 yards. Cal. Pub. Resources Code § 30103(a). The section of Ocean Beach which is the subject of these proceedings is located within the Coastal Zone.

(74) The Coastal Act requires that "any person...wishing to perform or undertake any development in the coastal zone... shall obtain a coastal development permit." Cal. Pub. Resources Code § 30600(a).

1 (75) The California Coastal Act defines “person” as “any person, firm,  
2 association, organization, partnership, business, trust, corporation, limited  
3 liability company, company, district, county, city and county, city, town, the  
4 state, and any of the agencies and political subdivisions of those entities,  
5 and, to the extent permitted by federal law, the United States, or any of its  
6 agencies or political subdivisions.” Cal. Pub. Resources Code § 30111.  
7 Defendants are persons under the California Coastal Act.

8 (76) The Coastal Act defines “development” as:

9 [O]n land, in or under water, the placement or  
10 erection of any solid material or structure; discharge  
11 or disposal of any dredged material or any gaseous,  
12 liquid, solid, or thermal waste; grading, removing,  
13 dredging, mining, or extraction of any materials;  
14 change in the density or intensity of use of land,  
15 including, but not limited to, subdivision pursuant to  
16 the Subdivision Map Act... and any other division of  
17 land, including lot splits, except where the land  
18 division is brought about in the connection with the  
19 purchase of such land by a public agency for public  
20 recreational use; change in the intensity use of water,  
21 or of access thereto; construction, reconstruction,  
22 demolition, or alteration of the size of any structure,  
23 including any facility of any private, public, or  
24 municipal utility; and the removal or harvesting of  
major vegetation other than for agricultural purposes,  
kelp harvesting, and timber operations which are in  
accordance with a timber harvesting plan... As used  
in section, ‘structure’ includes, but is not limited to,  
any building, road, pipe, flume, conduit, siphon,  
aqueduct, telephone line, and electrical power  
transmission and distribution line.

25 Cal. Pub. Resources Code § 30106.

26 (77) The Municipal Code for Palos Verdes Estates defines  
27 “development” as:

Whether lying on land outside of the water, or in or under water, each of the following shall be a 'development' for purposes of this chapter:

A. The placement or erecting of any solid material or structure;

B. The discharge or disposal of any dredged material or any gaseous, liquid, solid or thermal waste;

C. Grading, removing, dredging, mining or extraction of any materials;

D. A change in density or intensity of the use of any land, including but not limited to (1) any subdivision created pursuant to the Subdivision Map Act commencing with Cal. Gov. Code § 66410, (2) any other division of land, including lot splits; provided, however, that where a land division is brought in connection with the purchase of said land by a public agency for public recreational use, such division shall not constitute a development for purposes of this chapter.

#### UNPERMITTED DEVELOPMENTS

(78) On the north side of Lunada Bay nearest Palos Verdes Point, the LUNADA BAY BOYS, its members, and the Individual Defendants have built and maintain an illegal rock-masonry-and-wood fort structure at the base of the 100-foot bluff. Plaintiffs are informed and believe and thereon alleged that this structure is on property owned by PALOS VERDES ESTATES.

(79) In the middle of Lunada Bay, LUNADA BAY BOYS and the Individual Defendants have built and maintain a steep trail down the 100-foot bluff called the Goat Trail. Plaintiffs are informed and believe and thereon alleged that this trial is on property owned by PALOS VERDES ESTATES.

(80) Defendant LUNADA BAY BOYS and Individual Defendants have built a campfire ring with seating in the middle of Lunada Bay, near the base of the Goat Trail. Plaintiffs are informed and believe and thereon alleged that this trail is on property owned by PALOS VERDES ESTATES.

(81) On the south side of Lunada Bay, there is another trail down to



1 Lunada Bay ("South Trail"). Plaintiffs are informed and believe and thereon  
2 alleged that this trail is on property owned by PALOS VERDES ESTATES.

3 BLOCKING FULL PUBLIC ACCESS TO COAST

4 (82) Defendants' members regularly confront, attack, harass and  
5 assault people attempting to access the beach, but also confront, threaten to  
6 kill, assault, vandalize property, extort, and bring harm to other persons who  
7 work in, visit or pass through the Lunada Bay area for the primary purpose  
8 of preventing those people from accessing the beach area and for the  
9 purpose of committing torts and other wrongs on them. Defendants' criminal  
10 and other gang-related activities against visiting beachgoers to Lunada Bay  
11 violates the Bane Act and other laws. Defendants' activities create a  
12 threatening and intimidating atmosphere for visiting beachgoers, and  
13 therefore, infringe upon their rights constitutional right to recreate on  
14 California's public beaches.

15 (83) By letter dated January 21, 2016, enforcement analyst Jordan  
16 Sanchez of the California Coastal Commission notified Chief Jeff Kepley of  
17 the Palos Verdes Police Department that, among other things:

18 Precluding full public use of the coastline at Palos  
19 Verdes Estates, including the waters of Lunada Bay,  
20 whether through physical devices, such as  
21 construction of a fence, or nonphysical impediments,  
22 such as threatening behavior intended to discourage  
23 public use of the coastline, represents a change of  
24 access to water, and, thus, constitutes development  
25 under the Coastal Act and the Palos Verdes Estates  
26 LPC [Local Coastal Program]. No coastal  
27 development permit has been issued to authorize  
28 this activity, therefore, it is a violation of the LCP. . . .  
We have also received reports of unpermitted  
structures, including stone forts, constructed on the  
shoreline of Lunada Bay . . . the construction of a  
structure is also development that is within the power  
of the City to address . . .

1 (Attached and incorporated herein as Exhibit 18.)

2 (Declaratory Relief)

3 (84) Pursuant to California Public Resources Code Section 30803(a),  
4 the California Coastal Act provides, in relevant part that, "any person may  
5 maintain an action for declaratory and equitable relief to restrain any  
6 violation of this division..."

7 (85) An actual controversy exists between the Plaintiffs and the  
8 Defendants in that these Defendants have violated and are violating the  
9 California Coastal Act but refuse to admit the illegal nature of their activities.

10 (86) Because of the controversy that exists among the parties, a  
11 declaration of the rights and responsibilities of the parties with respect to the  
12 California Coastal Act is necessary. Specifically, Plaintiffs seek a  
13 declaration from this Court that the Defendants' acts as alleged herein are  
14 separate and continuing violations of the California Coastal Act.

15 (Injunctive Relief)

16 (87) Plaintiffs have no adequate remedy at law to require the  
17 Defendants to obtain a coastal development permit as alleged in this  
18 Complaint and, therefore, civil fines alone will not remedy the wrongs about  
19 which Plaintiffs complain.

20 (88) Unless this Court grants the equitable relief sought by Plaintiffs  
21 and the public generally, they will be irreparably harmed in that it will be  
22 deprived of both the aesthetic enjoyment and environmental protection of  
23 the natural resources in this part of the California Coastal Zone.

24 (89) Pursuant to California Public Resources Code Section 30803(a),  
25 the Coastal Act provides in relevant part: "...On a prima facie showing of a  
26 violation of this division, preliminary equitable relief shall be issued to  
27 restrain any further violation of the division. No bond shall be required for an  
28 action under this section."

1 (90) As a consequence of the Defendants' activities, Plaintiffs are  
2 entitled to a temporary restraining order to prevent any further development  
3 in the affected area while the Court considers any application by Plaintiffs for  
4 preliminary and permanent injunctive relief.

5 (Civil Fines)

6 (91) Pursuant to California Public Resources Code section 30820(a),  
7 the California Coastal Act provides in relevant part for civil fines as follows:

8 Any person who violates any provision of this division  
9 may be civilly liable in accordance with this  
subdivision as follows:

10 Civil liability may be imposed by the superior court in  
11 accordance with this article on any person who  
12 performs or undertakes development that is in  
13 violation of this division ... in an amount that shall not  
14 exceed thirty thousand dollars (\$30,000) and shall  
15 not be less than five hundred dollars (\$500) ... Civil  
liability may be imposed for any violation of this  
division other than that specified in paragraph (1) in  
an amount that shall not exceed thirty thousand  
dollars (\$30,000).

16 (92) Plaintiffs are informed and believe and on such information and  
17 belief allege that the Defendants are liable for civil fines by virtue of the fact  
18 that they have failed to obtain and comply with the terms and conditions of a  
19 Coastal Development Permit as alleged herein.

20 (Daily Fines)

21 (93) Pursuant to California Public Resources Code section 30820(b),  
22 the California Coastal Act provides in relevant part for additional civil fines as  
23 follows:

24 Any persons who performs or undertakes  
25 development that is in violation of this division ...  
26 when that person intentionally and knowingly  
27 performs or undertakes the development in violation  
28 of this division ... may, in addition to any other  
penalties, be civilly liable in accordance with this  
subdivision. Civil liability may be imposed by the  
superior court in accordance with this article for a  
violation as specified in this subdivision in an amount

which shall not be less than one thousand dollars (\$1,000.00), nor more than fifteen thousand dollars (\$15,000.00), per day for each day in which the violation persists.

(94) Plaintiffs are informed and believe and on such information and belief allege that the Defendants, by virtue of their knowing, intentional, and continuing violation(s) of the California Coastal Act, are liable for daily fines of up to \$15,000.00 for each day in which the alleged violations(s) have occurred and continue without abatement.

WHEREFORE, Plaintiffs pray for relief as set forth below

#### **SIXTH CAUSE OF ACTION**

##### **(Assault - LUNADA BAY BOYS and the Individual Defendants)**

(95) Plaintiffs repeat, re-allege and incorporate herein by this reference each and every allegation contained in Paragraphs 1 through 94, inclusive.

(96) At all relevant times the LUNADA BAY BOYS and the Individual Defendants acted with the intent to cause harmful and/or offensive contact to Plaintiffs and the class members.

(97) Plaintiffs reasonably believed that they were about to be touched in a harmful offensive manner. It reasonably appeared to Plaintiffs that the LUNADA BAY BOYS and the Individual Defendants were about to carry out the threat.

(98) Plaintiffs did not consent to the LUNADA BAY BOYS and the Individual Defendants' conduct.

WHEREFORE, Plaintiffs pray for relief as set forth below.

#### **SEVENTH CAUSE OF ACTION**

##### **(Battery - LUNADA BAY BOYS and the Individual Defendants)**

(99) Plaintiffs repeat, re-allege and incorporate herein by this reference each and every allegation contained in Paragraphs 1 through 98,



1 inclusive.

2 (100) As set forth previously, the LUNADA BAY BOYS and the  
3 Individual Defendants at various different times touched Plaintiffs and  
4 various class members with the intent to harm or offend.

5 (101) Plaintiffs and various class members did not consent to the  
6 touching and were harmed and/or offended by the LUNADA BAY BOYS and  
7 its Individual Defendants' conduct. A reasonable person in Plaintiff's'  
8 situation would have been offended by the touching.

9 **EIGHTH CAUSE OF ACTION**

10 **(Negligence - LUNADA BAY BOYS and the Individual Defendants)**

11 (102) Plaintiffs repeat, re-allege and incorporate herein by this  
12 reference each and every allegation contained in Paragraphs 1 through 101,  
13 inclusive.

14 (103) Defendants LUNADA BAY BOYS and the Individual Defendants  
15 breached their legal duty by acting as heretofore alleged. As described  
16 herein and alleged above, Defendants failed to exercise ordinary and  
17 reasonable care in complying with the aforementioned statutorily imposed  
18 duties, and, therefore, breached the same, proximately resulting in general  
19 and special damages to Plaintiffs according to proof.

20 (104) It was reasonably foreseeable that Defendants' conduct, as  
21 herein alleged, would give rise to Plaintiffs' severe emotional distress  
22 because Defendants had actual knowledge of the conditions and the  
23 consequences to Plaintiffs but nevertheless disregarded the rights, health  
24 and safety of Plaintiffs.

25 (105) At the time Defendants acted as heretofore alleged, Defendants  
26 knew, or reasonably should have known, that Plaintiffs would suffer extreme  
27 mental distress, embarrassment, frustration, annoyance, inconvenience,  
28 anger, shame, physical pain and discomfort, and grief. Plaintiffs suffered



1 extreme emotional distress, anger, frustration, fear and inconvenience all  
2 based on Defendants' negligent conduct.

3 (106) As a direct and proximate result of Defendants' negligent  
4 conduct, Plaintiffs suffered actual, general, and special damages including  
5 extreme emotional distress as set forth herein.

6 WHEREFORE, Plaintiffs pray for relief as set forth below.

7 **RELIEF**

8 WHEREFORE, Plaintiffs respectfully request:

- 9 1. That this Court assume jurisdiction.
- 10 2. That this Court certify the class identified in paragraph 30.
- 11 3. That this Court certify that Plaintiffs Spencer and Reed are  
12 representative of this class.
- 13 4. That this Court declare LUNADA BAY BOYS to be a criminal  
14 street gang as defined in California Penal Code § 186.22(f), and an  
15 unincorporated association within the meaning of California Corporations  
16 Code § 18035(a). Further, that this Court declare the Individual Defendants  
17 are members or associated with LUNADA BAY BOYS. And, that this Court  
18 declare LUNADA BAY BOYS and the Individual Defendants have engaged  
19 in predicate crimes under California Civil Code § 52.1.
- 20 5. That this Court issue an injunction under California Civil Code  
21 § 52.1, ordering LUNADA BAY BOYS and the Individual Defendants to  
22 refrain from the unlawful conduct and activities described in this action,  
23 further enjoining LUNADA BAY BOYS and the Individual Defendants from  
24 congregating, recreating (including but not limited to any beachgoer activity)  
25 or otherwise using the Lunada Bay area between Resort Point to the south  
26 and Palos Verdes Point to the north, including the Rock Fort, the ocean,  
27 beach, bluff, and street areas surrounding Lunada Bay.
- 28 6. That this Court award minimum statutory damages, defined as

1 \$4,000 per incident of under California Civil Code §§ 52.1(b), and 52(a) to  
2 each Plaintiff and member of the proposed class for violations of their rights  
3 under state law, as well as any other damages that may be appropriate.

4 7. That this Court declare PALOS VERDES ESTATES, and Chief  
5 of Police Kepley in his representative capacity, to have has engaged in  
6 unlawful municipal exclusion under 42 U.S.C. § 1983 by their policies,  
7 customs, and/or longstanding practices, and in deliberate indifference  
8 towards Plaintiffs' rights under the laws of the United States and/or the  
9 United States Constitution unlawfully excluded Plaintiffs, and persons like  
10 them, from their right to recreational opportunities at Palos Verdes Estates'  
11 parks, beaches, and access to the ocean on the basis of their status as non-  
12 residents.

13 8. That this Court issue an injunction requiring PALOS VERDES  
14 ESTATES and Chief of Police Kepley to investigate complaints against the  
15 LUNADA BAY BOYS and the Individual Defendants, and prosecute these  
16 complaints as appropriate, if the LUNADA BAY BOYS and/or the Individual  
17 Defendants harass, attack, injure, threaten, intimidate, extort, or coerce  
18 visiting beachgoers to Lunada Bay.

19 9. For an award of general damages against the LUNADA BAY  
20 BOYS and the Individual Defendants.

21 10. For an award of special damages against the LUNADA BAY  
22 BOYS and the Individual Defendants.

23 11. For an award of exemplary damages against the LUNADA BAY  
24 BOYS and the Individual Defendants.

25 12. With respect to the Fifth Cause of Action, for a declaration of the  
26 rights and responsibilities of the parties with respect to the California Coastal  
27 Act. Specifically, Plaintiffs seek a declaration from the Court that the  
28 Defendants' actions as set forth in this Complaint are separate and

1 continuing violations of the California Coastal Act.

2 13. With respect to the Fifth Cause of Action, for preliminary and  
3 permanent injunctive relief mandating the Defendants to refrain from any  
4 further activities in the affected area without first complying with the  
5 provisions of the Coastal Act and for a permanent injunction requiring the  
6 Defendants to obtain a lawfully issued Coastal Development Permit.

7 14. With respect to the Fifth Cause of Action, for a civil fine of up to  
8 \$30,000.00 against each Defendant for each act authorizing or engaging in  
9 or performing activities in violation of the California Coastal Act.

10 15. With respect to the Fifth Cause of Action, for a civil fine of up to  
11 \$15,000.00 per day against each Defendant for each day from the  
12 commencement of the violation(s) of the California Coastal Act to the date  
13 each Defendant complies with the requirements of the California Coastal  
14 Act.

15 16. For costs and attorney's fees incurred by Plaintiffs in prosecuting  
16 the instant action as allowed by Code of Civil Procedure section 1021.5  
17 and/or any other applicable provision(s) of law.

18 17. That this Court award Plaintiffs' reasonable attorneys' fees and  
19 costs pursuant to federal and California law.

20 18. That this Court award such additional or alternative relief as may  
21 be just, proper and equitable.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

Plaintiffs demand a jury on all issues which can be heard by a jury.

HANSON BRIDGETT LLP

Attorneys for Plaintiffs  
CORY SPENCER, DIANA MILENA  
REED, and COASTAL PROTECTION  
RANGERS, INC.

**L.R. 5-4.3.4(A)(2) ATTESTATION**

I, Kurt A. Franklin, am the ECF User whose ID and password are being used to file the following: **Class Action Complaint and Jury Demand**. In compliance with Civil L.R. 5-4.3.4(a)(2), I hereby attest that I have obtained concurrence in this filing and authorization to file from co-counsel, Victor Otten.

DATED: March 29, 2016

HANSON BRIDGETT LLP

Bv: /s/ Kurt A. Franklin

KURT A. FRANKLIN

Attorneys for Plaintiffs  
CORY SPENCER, DIANA MILENA  
REED, and COASTAL PROTECTION  
RANGERS, INC.



## **Exhibit B**

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Laura L. Bell, State Bar No. 134276  
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Attorneys for Defendants,  
FRANK FERRARA and CHARLIE FERRARA

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA, WESTERN DISTRICT**

CORY SPENCER, an individual; DIANA  
MILENA REED, an individual;  
COASTAL PROTECTION RANGERS,  
INC. et al,

Plaintiff,

vs.

LUNADA BAY BOYS; THE  
INDIVIDUAL MEMBERS OF THE  
LUNADA BAY BOYS, including but not  
limited to SANG LEE, BRANT  
BLAKEMAN, ANGELO FERRARA,  
FRANK FERRARA, CHARLIE  
FERRARA, et al,

Defendants.

Case No. 2:16-cv-2129

Judge: Hon. S. James Ontero  
Dept: 1

**DEFENDANT, CHARLIE  
FERRARA'S ANSWER TO THE  
CLASS ACTION COMPLAINT**

**ANSWER TO CLASS ACTION COMPLAINT**

Pursuant to Rule 8 of the Federal Rules of Civil Procedures, Defendant,  
CHARLIE FERRARA, by and through his attorneys, hereby answers the unverified  
Class Action Complaint (hereinafter "Complaint") filed by Plaintiffs, CORY  
SPENCER, an individual; DIANA MILENA REED, an individual; and COASTAL  
PROTECTION RANGERS, INC. et al. (herein collectively known as "Plaintiffs") as  
follows:

///

CHARLIE FERRARA'S ANSWER TO THE CLASS ACTION COMPLAINT

**THE PARTIES**

1  
2 1. Answering paragraph 1, CHARLIE FERRARA is without sufficient  
3 information and knowledge to admit or deny the allegations in the paragraph, and on  
4 that basis denies each and every allegation contained therein.

5 2. Answering paragraph 2, CHARLIE FERRARA is without sufficient  
6 information and knowledge to admit or deny the allegations in the paragraph, and on  
7 that basis denies each and every allegation contained therein.

8 3. Answering paragraph 3, CHARLIE FERRARA is without sufficient  
9 information and knowledge to admit or deny the allegations in the paragraph, and on  
10 that basis denies each and every allegation contained therein.

11 4. Answering paragraph 4, CHARLIE FERRARA is without sufficient  
12 information and knowledge to admit or deny the allegations in the paragraph, and on  
13 that basis denies each and every allegation contained therein.

14 5. Answering paragraph 5, CHARLIE FERRARA is without sufficient  
15 information and knowledge to admit or deny the allegations in the paragraph, and on  
16 that basis denies each and every allegation contained therein.

17 6. Answering paragraph 6, CHARLIE FERRARA is without sufficient  
18 information and knowledge to admit or deny the allegations in the paragraph, and on  
19 that basis denies each and every allegation contained therein.

20 7. Answering paragraph 7, CHARLIE FERRARA is without sufficient  
21 information and knowledge to admit or deny the allegations in the paragraph, and on  
22 that basis denies each and every allegation contained therein.

23 8. Answering paragraph 8, CHARLIE FERRARA is without sufficient  
24 information and knowledge to admit or deny the allegations in the paragraph, and on  
25 that basis denies each and every allegation contained therein.

26 9. Answering paragraph 9, CHARLIE FERRARA is without sufficient  
27 information and knowledge to admit or deny the allegations in the paragraph, and on  
28 that basis denies each and every allegation contained therein.

1           10. Answering paragraph 10, CHARLIE FERRARA is without sufficient  
2 information and knowledge to admit or deny the allegations in the paragraph, and on  
3 that basis denies each and every allegation contained therein.

4                           **JURISDICTION AND VENUE**

5           11. Answering paragraph 11, CHARLIE FERRARA is without sufficient  
6 information and knowledge to admit or deny the allegations in the paragraph, and on  
7 that basis denies each and every allegation contained therein.

8           12. Answering paragraph 12, CHARLIE FERRARA is without sufficient  
9 information and knowledge to admit or deny the allegations in the paragraph, and on  
10 that basis denies each and every allegation contained therein.

11           13. Answering paragraph 13, CHARLIE FERRARA is without sufficient  
12 information and knowledge to admit or deny the allegations in the paragraph, and on  
13 that basis denies each and every allegation contained therein.

14           14. Answering paragraph 14, CHARLIE FERRARA is without sufficient  
15 information and knowledge to admit or deny the allegations in the paragraph, and on  
16 that basis denies each and every allegation contained therein.

17                           **STATEMENT OF FACTS**

18           15. Answering paragraph 15, CHARLIE FERRARA is without sufficient  
19 information and knowledge to admit or deny the allegations in the paragraph, and on  
20 that basis denies each and every allegation contained therein.

21           16. Answering paragraph 16, CHARLIE FERRARA is without sufficient  
22 information and knowledge to admit or deny the allegations in the paragraph, and on  
23 that basis denies each and every allegation contained therein.

24           17. Answering paragraph 17, CHARLIE FERRARA is without sufficient  
25 information and knowledge to admit or deny the allegations in the paragraph, and on  
26 that basis denies each and every allegation contained therein.

1 18. Answering paragraph 18, CHARLIE FERRARA is without sufficient  
2 information and knowledge to admit or deny the allegations in the paragraph, and on  
3 that basis denies each and every allegation contained therein.

4 19. Answering paragraph 19, CHARLIE FERRARA is without sufficient  
5 information and knowledge to admit or deny the allegations in the paragraph, and on  
6 that basis denies each and every allegation contained therein.

7 20. Answering paragraph 20, CHARLIE FERRARA is without sufficient  
8 information and knowledge to admit or deny the allegations in the paragraph, and on  
9 that basis denies each and every allegation contained therein.

10 21. Answering paragraph 21, CHARLIE FERRARA is without sufficient  
11 information and knowledge to admit or deny the allegations in the paragraph, and on  
12 that basis denies each and every allegation contained therein.

13 22. Answering paragraph 22, CHARLIE FERRARA is without sufficient  
14 information and knowledge to admit or deny the allegations in the paragraph, and on  
15 that basis denies each and every allegation contained therein.

16 23. Answering paragraph 23, CHARLIE FERRARA is without sufficient  
17 information and knowledge to admit or deny the allegations in the paragraph, and on  
18 that basis denies each and every allegation contained therein.

19 24. Answering paragraph 24, CHARLIE FERRARA is without sufficient  
20 information and knowledge to admit or deny the allegations in the paragraph, and on  
21 that basis denies each and every allegation contained therein.

22 25. Answering paragraph 25, CHARLIE FERRARA is without sufficient  
23 information and knowledge to admit or deny the allegations in the paragraph, and on  
24 that basis denies each and every allegation contained therein.

25 26. Answering paragraph 26, CHARLIE FERRARA is without sufficient  
26 information and knowledge to admit or deny the allegations in the paragraph, and on  
27 that basis denies each and every allegation contained therein.

28



1           27. Answering paragraph 27, CHARLIE FERRARA is without sufficient  
2 information and knowledge to admit or deny the allegations in the paragraph, and on  
3 that basis denies each and every allegation contained therein.

4           28. Answering paragraph 28, CHARLIE FERRARA is without sufficient  
5 information and knowledge to admit or deny the allegations in the paragraph, and on  
6 that basis denies each and every allegation contained therein.

7           29. Answering paragraph 29, CHARLIE FERRARA is without sufficient  
8 information and knowledge to admit or deny the allegations in the paragraph, and on  
9 that basis denies each and every allegation contained therein.

10                           **CLASS ACTION ALLEGATIONS**

11           30. Answering paragraph 30, CHARLIE FERRARA is without sufficient  
12 information and knowledge to admit or deny the allegations in the paragraph, and on  
13 that basis denies each and every allegation contained therein.

14           31. Answering paragraph 31, CHARLIE FERRARA is without sufficient  
15 information and knowledge to admit or deny the allegations in the paragraph, and on  
16 that basis denies each and every allegation contained therein.

17           32. Answering paragraph 32, CHARLIE FERRARA is without sufficient  
18 information and knowledge to admit or deny the allegations in the paragraph, and on  
19 that basis denies each and every allegation contained therein.

20           33. Answering paragraph 33, CHARLIE FERRARA is without sufficient  
21 information and knowledge to admit or deny the allegations in the paragraph, and on  
22 that basis denies each and every allegation contained therein.

23           34. Answering paragraph 34, CHARLIE FERRARA is without sufficient  
24 information and knowledge to admit or deny the allegations in the paragraph, and on  
25 that basis denies each and every allegation contained therein.

26           35. Answering paragraph 35, CHARLIE FERRARA is without sufficient  
27 information and knowledge to admit or deny the allegations in the paragraph, and on  
28 that basis denies each and every allegation contained therein.

1       36. Answering paragraph 36, CHARLIE FERRARA is without sufficient  
2 information and knowledge to admit or deny the allegations in the paragraph, and on  
3 that basis denies each and every allegation contained therein.

4       37. Answering paragraph 37, CHARLIE FERRARA is without sufficient  
5 information and knowledge to admit or deny the allegations in the paragraph, and on  
6 that basis denies each and every allegation contained therein.

7       38. Answering paragraph 38, CHARLIE FERRARA is without sufficient  
8 information and knowledge to admit or deny the allegations in the paragraph, and on  
9 that basis denies each and every allegation contained therein.

10       39. Answering paragraph 39, CHARLIE FERRARA is without sufficient  
11 information and knowledge to admit or deny the allegations in the paragraph, and on  
12 that basis denies each and every allegation contained therein.

13       40. Answering paragraph 40, CHARLIE FERRARA is without sufficient  
14 information and knowledge to admit or deny the allegations in the paragraph, and on  
15 that basis denies each and every allegation contained therein.

16       41. Answering paragraph 41, CHARLIE FERRARA is without sufficient  
17 information and knowledge to admit or deny the allegations in the paragraph, and on  
18 that basis denies each and every allegation contained therein.

19       42. Answering paragraph 42, CHARLIE FERRARA is without sufficient  
20 information and knowledge to admit or deny the allegations in the paragraph, and on  
21 that basis denies each and every allegation contained therein.

22                                   **FIRST CAUSE OF ACTION**

23       **(Bane Act - Against LUNADA BAY BOYS and the Individual Defendants**

24       43. Answering paragraph 43, CHARLIE FERRARA admits that Plaintiffs  
25 repeat, re-allege and incorporate herein by this reference each and every allegation  
26 contained in Paragraphs 1 through 42, inclusive.

1           44. Answering paragraph 44, CHARLIE FERRARA is without sufficient  
2 information and knowledge to admit or deny the allegations in the paragraph, and on  
3 that basis denies each and every allegation contained therein.

4           45. Answering paragraph 45, CHARLIE FERRARA is without sufficient  
5 information and knowledge to admit or deny the allegations in the paragraph, and on  
6 that basis denies each and every allegation contained therein.

7           46. Answering paragraph 46, CHARLIE FERRARA is without sufficient  
8 information and knowledge to admit or deny the allegations in the paragraph, and on  
9 that basis denies each and every allegation contained therein.

10          47. Answering paragraph 47, CHARLIE FERRARA is without sufficient  
11 information and knowledge to admit or deny the allegations in the paragraph, and on  
12 that basis denies each and every allegation contained therein.

13          48. Answering paragraph 48, CHARLIE FERRERA admits the allegations  
14 contained therein.

15          49. Answering paragraph 49, CHARLIE FERRARA is without sufficient  
16 information and knowledge to admit or deny the allegations in the paragraph, and on  
17 that basis denies each and every allegation contained therein.

18          50. Answering paragraph 50, CHARLIE FERRARA is without sufficient  
19 information and knowledge to admit or deny the allegations in the paragraph, and on  
20 that basis denies each and every allegation contained therein.

21                           **CIVIL CONSPIRACY ALLEGATIONS**

22          51. Answering paragraph 51, CHARLIE FERRARA admits that Plaintiffs  
23 repeat, re-allege and incorporate herein by this reference each and every allegation  
24 contained in Paragraphs 1 through 50, inclusive.

25          52. Answering paragraph 52, CHARLIE FERRARA is without sufficient  
26 information and knowledge to admit or deny the allegations in the paragraph, and on  
27 that basis denies each and every allegation contained therein.

1       53. Answering paragraph 53, CHARLIE FERRARA is without sufficient  
2 information and knowledge to admit or deny the allegations in the paragraph, and on  
3 that basis denies each and every allegation contained therein.

4                               **SECOND CAUSE OF ACTION**

5                   **(Public Nuisance- LUNADA BAY BOYS and the Individual Defendants)**

6       54. Answering paragraph 54, CHARLIE FERRARA admits that Plaintiffs  
7 repeat, re-allege and incorporate herein by this reference each and every allegation  
8 contained in Paragraphs 1 through 53, inclusive.

9       55. Answering paragraph 55, CHARLIE FERRARA is without sufficient  
10 information and knowledge to admit or deny the allegations in the paragraph, and on  
11 that basis denies each and every allegation contained therein.

12       56. Answering paragraph 56, CHARLIE FERRARA is without sufficient  
13 information and knowledge to admit or deny the allegations in the paragraph, and on  
14 that basis denies each and every allegation contained therein.

15       57. Answering paragraph 57, CHARLIE FERRARA is without sufficient  
16 information and knowledge to admit or deny the allegations in the paragraph, and on  
17 that basis denies each and every allegation contained therein.

18       58. Answering paragraph 58, CHARLIE FERRARA is without sufficient  
19 information and knowledge to admit or deny the allegations in the paragraph, and on  
20 that basis denies each and every allegation contained therein.

21       59. Answering paragraph 59, CHARLIE FERRARA is without sufficient  
22 information and knowledge to admit or deny the allegations in the paragraph, and on  
23 that basis denies each and every allegation contained therein.

24       60. Answering paragraph 60, CHARLIE FERRARA is without sufficient  
25 information and knowledge to admit or deny the allegations in the paragraph, and on  
26 that basis denies each and every allegation contained therein.

**THIRD CAUSE OF ACTION**

**(42 U.S.C. § 1983 - Equal Protection - PALOS VERDES ESTATES and  
Defendant, Chief of Police Kepley)**

61. Answering paragraph 61, CHARLIE FERRARA admits that Plaintiffs repeat, re-allege and incorporate herein by this reference each and every allegation contained in Paragraphs 1 through 60, inclusive.

62. Answering paragraph 62, CHARLIE FERRARA responds that the paragraph is part of a claim that is not asserted against CHARLIE FERRERA, and therefore, no response is required.

63. Answering paragraph 63, CHARLIE FERRARA responds that the paragraph is part of a claim that is not asserted against CHARLIE FERRERA, and therefore, no response is required.

64. Answering paragraph 64, CHARLIE FERRARA responds that the paragraph is part of a claim that is not asserted against CHARLIE FERRERA, and therefore, no response is required.

65. Answering paragraph 65, CHARLIE FERRARA responds that the paragraph is part of a claim that is not asserted against CHARLIE FERRERA, and therefore, no response is required.

**FOURTH CAUSE OF ACTION**

**(42 U.S.C. § 1983 - Privileges and Immunities - PALOS VERDES ESTATES  
and Defendant, Chief of Police Kepley)**

66. Answering paragraph 66, CHARLIE FERRARA admits that Plaintiffs repeat, re-allege and incorporate herein by this reference each and every allegation contained in Paragraphs 1 through 65, inclusive.

67. Answering paragraph 67, CHARLIE FERRARA responds that the paragraph is part of a claim that is not asserted against CHARLIE FERRERA, and therefore, no response is required.



1       68. Answering paragraph 68, CHARLIE FERRARA responds that the  
2 paragraph is part of a claim that is not asserted against CHARLIE FERRERA, and  
3 therefore, no response is required.

4       69. Answering paragraph 69, CHARLIE FERRARA responds that the  
5 paragraph is part of a claim that is not asserted against CHARLIE FERRERA, and  
6 therefore, no response is required.

7                                   **FIFTH CAUSE OF ACTION**

8                           **(Violation of California Coastal Act- All Defendants)**

9       70. Answering paragraph 70, CHARLIE FERRARA admits that Plaintiffs  
10 repeat, re-allege and incorporate herein by this reference each and every allegation  
11 contained in Paragraphs 1 through 69, inclusive.

12                                   **CALIFORNIA COASTAL ACT**

13       71. Answering paragraph 71, CHARLIE FERRERA admits the allegations  
14 contained therein.

15       72. Answering paragraph 72, CHARLIE FERRERA admits the allegations  
16 contained therein.

17       73. Answering paragraph 73, CHARLIE FERRARA is without sufficient  
18 information and knowledge to admit or deny the allegations in the paragraph, and on  
19 that basis denies each and every allegation contained therein.

20       74. Answering paragraph 74, CHARLIE FERRARA admits the allegations  
21 contained therein.

22       75. Answering paragraph 75, CHARLIE FERRARA denies the allegations  
23 contained therein. California Public Resources Code, Section 30111 defines  
24 “Person” as “any individual, organization, partnership, limited liability company, or  
25 other business association or corporation, including any utility, and any federal, state,  
26 local government, or special district or an agency thereof”.

27       76. Answering paragraph 76, CHARLIE FERRARA admits the allegations  
28 contained therein.

1        77. Answering paragraph 77, CHARLIE FERRARA is without sufficient  
2 information and knowledge to admit or deny the allegations in the paragraph, and on  
3 that basis denies each and every allegation contained therein.

4                                    **UNPERMITTED DEVELOPMENTS**

5        78. Answering paragraph 78, CHARLIE FERRARA is without sufficient  
6 information and knowledge to admit or deny the allegations in the paragraph, and on  
7 that basis denies each and every allegation contained therein.

8        79. Answering paragraph 79, CHARLIE FERRARA is without sufficient  
9 information and knowledge to admit or deny the allegations in the paragraph, and on  
10 that basis denies each and every allegation contained therein.

11       80. Answering paragraph 80, CHARLIE FERRARA is without sufficient  
12 information and knowledge to admit or deny the allegations in the paragraph, and on  
13 that basis denies each and every allegation contained therein.

14       81. Answering paragraph 81, CHARLIE FERRARA is without sufficient  
15 information and knowledge to admit or deny the allegations in the paragraph, and on  
16 that basis denies each and every allegation contained therein.

17                                    **BLOCKING FULL PUBLIC ACCESS TO COAST**

18       82. Answering paragraph 82, CHARLIE FERRARA is without sufficient  
19 information and knowledge to admit or deny the allegations in the paragraph, and on  
20 that basis denies each and every allegation contained therein.

21       83. Answering paragraph 83, CHARLIE FERRARA is without sufficient  
22 information and knowledge to admit or deny the allegations in the paragraph, and on  
23 that basis denies each and every allegation contained therein.

24                                    **(Declaratory Relief)**

25       84. Answering paragraph 84, CHARLIE FERRARA admits the allegations  
26 contained therein.

1       85. Answering paragraph 85, CHARLIE FERRARA is without sufficient  
2 information and knowledge to admit or deny the allegations in the paragraph, and on  
3 that basis denies each and every allegation contained therein.

4       86. Answering paragraph 86, CHARLIE FERRARA is without sufficient  
5 information and knowledge to admit or deny the allegations in the paragraph, and on  
6 that basis denies each and every allegation contained therein.

7                                   **(Injunctive Relief)**

8       87. Answering paragraph 87, CHARLIE FERRARA is without sufficient  
9 information and knowledge to admit or deny the allegations in the paragraph, and on  
10 that basis denies each and every allegation contained therein.

11       88. Answering paragraph 88, CHARLIE FERRARA is without sufficient  
12 information and knowledge to admit or deny the allegations in the paragraph, and on  
13 that basis denies each and every allegation contained therein.

14       89. Answering paragraph 89, CHARLIE FERRARA admits the allegations  
15 contained therein.

16       90. Answering paragraph 90, CHARLIE FERRARA is without sufficient  
17 information and knowledge to admit or deny the allegations in the paragraph, and on  
18 that basis denies each and every allegation contained therein.

19                                   **(Civil Fines)**

20       91. Answering paragraph 91, CHARLIE FERRARA admits the allegations  
21 contained therein.

22       92. Answering paragraph 92, CHARLIE FERRARA is without sufficient  
23 information and knowledge to admit or deny the allegations in the paragraph, and on  
24 that basis denies each and every allegation contained therein.

25                                   **(Daily Fines)**

26       93. Answering paragraph 93, CHARLIE FERRARA admits the allegations  
27 contained therein.

1 94. Answering paragraph 94, CHARLIE FERRARA is without sufficient  
2 information and knowledge to admit or deny the allegations in the paragraph, and on  
3 that basis denies each and every allegation contained therein.

4 **SIXTH CAUSE OF ACTION**

5 **Assault - LUNADA BAY BOYS and the Individual Defendants**

6 95. Answering paragraph 95, CHARLIE FERRARA admits that Plaintiffs  
7 repeat, re-allege and incorporate herein by this reference each and every allegation  
8 contained in Paragraphs 1 through 94, inclusive.

9 96. Answering paragraph 96, CHARLIE FERRARA is without sufficient  
10 information and knowledge to admit or deny the allegations in the paragraph, and on  
11 that basis denies each and every allegation contained therein.

12 97. Answering paragraph 97, CHARLIE FERRARA is without sufficient  
13 information and knowledge to admit or deny the allegations in the paragraph, and on  
14 that basis denies each and every allegation contained therein.

15 98. Answering paragraph 98, CHARLIE FERRARA is without sufficient  
16 information and knowledge to admit or deny the allegations in the paragraph, and on  
17 that basis denies each and every allegation contained therein.

18 **SEVENTH CAUSE OF ACTION**

19 **Battery- LUNADA BAY BOYS and the Individual Defendants**

20 99. Answering paragraph 99, CHARLIE FERRARA admits that Plaintiffs  
21 repeat, re-allege and incorporate herein by this reference each and every allegation  
22 contained in Paragraphs 1 through 98, inclusive.

23 100. Answering paragraph 100, CHARLIE FERRARA is without sufficient  
24 information and knowledge to admit or deny the allegations in the paragraph, and on  
25 that basis denies each and every allegation contained therein.

26 101. Answering paragraph 101, CHARLIE FERRARA is without sufficient  
27 information and knowledge to admit or deny the allegations in the paragraph, and on  
28 that basis denies each and every allegation contained therein.

**EIGHTH CAUSE OF ACTION**

**Negligence- LUNADA BAY BOYS and the Individual Defendants**

102. Answering paragraph 102, CHARLIE FERRARA admits that Plaintiffs repeat, re-allege and incorporate herein by this reference each and every allegation contained in Paragraphs 1 through 101, inclusive.

103. Answering paragraph 103, CHARLIE FERRARA is without sufficient information and knowledge to admit or deny the allegations in the paragraph, and on that basis denies each and every allegation contained therein.

104. Answering paragraph 104, CHARLIE FERRARA is without sufficient information and knowledge to admit or deny the allegations in the paragraph, and on that basis denies each and every allegation contained therein.

105. Answering paragraph 105, CHARLIE FERRARA is without sufficient information and knowledge to admit or deny the allegations in the paragraph, and on that basis denies each and every allegation contained therein.

106. Answering paragraph 106, CHARLIE FERRARA is without sufficient information and knowledge to admit or deny the allegations in the paragraph, and on that basis denies each and every allegation contained therein.

**PRAYER FOR RELIEF**

107. Answering the Prayer for Relief, CHARLIE FERRARA denies that Plaintiffs are entitled to any reliefs sought in its Prayer for Relief, and denies that Plaintiffs are entitled to any relief whatsoever.

**AFFIRMATIVE DEFENSES**

108. CHARLIE FERRARA pleads the following affirmative defenses and expressly reserves the right to assert additional affirmative defense as the case progresses.

**FIRST AFFIRMATIVE DEFENSE**

(Failure to State a Claim)

109. The Complaint fails to state a claim upon which relief can be granted.



1 **SECOND AFFIRMATIVE DEFENSE**

2 (Failure to Mitigate Damages)

3 110. The Complaint and each Claim for Relief therein, is barred, in whole or  
4 in part, by Plaintiffs' failure to mitigate any alleged damages.

5 **THIRD AFFIRMATIVE DEFENSE**

6 (Unclean Hands)

7 111. The Complaint and each Claim for Relief therein, is barred, in whole or  
8 in part, by the doctrine of unclean hands.

9 **FOURTH AFFIRMATIVE DEFENSE**

10 (Laches)

11 112. The Complaint and each Claim for Relief therein, is barred, in whole or  
12 in part, by the doctrine of laches.

13 **FIFTH AFFIRMATIVE DEFENSE**

14 (Estoppel)

15 113. The Complaint and each Claim for Relief therein, is barred, in whole or  
16 in part by, the Doctrine of Estoppel.

17 **SIXTH AFFIRMATIVE DEFENSE**

18 (Waiver)

19 114. The Complaint and each Claim for Relief therein, is barred, in whole or  
20 in part by, the Doctrine of Waiver.

21 **SEVENTH AFFIRMATIVE DEFENSE**

22 (Compromise of Claims)

23 115. CHARLIE FERRARA alleges that if it should be found that it is in any  
24 manner legally responsible for the damages, if any, sustained by Plaintiffs, which  
25 CHARLIE FERRARA specifically denies, then said damages must be reduced by  
26 virtue of Plaintiffs' compromise of its purported claims against others.

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**EIGHTH AFFIRMATIVE DEFENSE**

(Liability of Others)

116. CHARLIE FERRARA alleges that if it is determined that Plaintiffs sustained any damages as alleged in the Complaint, such damage was legally caused or contributed to by persons and/or entities other than CHARLIE FERRARA. The liability of CHARLIE FERRARA and other responsible parties, named or unnamed, must be apportioned according to the relative degree of fault between them, if any, and the liability of CHARLIE FERRARA reduced accordingly.

**NINTH AFFIRMATIVE DEFENSE**

(Intervening/Superseding Cause)

117. CHARLIE FERRARA alleges that the damages sustained by Plaintiffs, if any were proximately caused by the intervening and superseding acts of Plaintiffs, its agent/employee and/or others, which acts bar and/or diminish Plaintiffs' recovery, if any, against CHARLIE FERRARA.

**TENTH AFFIRMATIVE DEFENSE**

(Reasonableness of Conduct)

118. CHARLIE FERRARA alleges that its conduct was, at all times relevant herein, reasonable and in good faith based on the material facts and circumstances known to CHARLIE FERRARA.

**ELEVENTH AFFIRMATIVE DEFENSE**

(No Damages Proximately Caused)

119. CHARLIE FERRARA alleges that Plaintiffs have not sustained any damages which have been proximately caused by any purported act, omission or breach of any duty on the part of CHARLIE FERRARA.

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**TWELFTH AFFIRMATIVE DEFENSE**

(Indemnity)

120. CHARLIE FERRARA alleges that Plaintiffs have not sustained any damages which have been proximately caused by any purported act, omission or breach of any duty on the part of CHARLIE FERRARA

**THIRTEENTH AFFIRMATIVE DEFENSE**

(Indemnity)

121. CHARLIE FERRARA alleges that if Plaintiffs sustained any damages, which CHARLIE FERRARA specifically denies, CHARLIE FERRARA is entitled to indemnity from other parties to the extent that such parties contributed to Plaintiffs' damages, if any.

**FOURTEENTH AFFIRMATIVE DEFENSE**

(Reservation of Right to Amend)

122. CHARLIE FERRARA alleges that it presently has insufficient knowledge or information on which to form a belief as to whether it may have additional, as yet unstated, Affirmative Defense available. Accordingly, CHARLIE FERRARA reserves herein the right to assert additional defenses in the event that discovery indicates they would be appropriate.

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**REQUEST FOR RELIEF**

WHEREFORE, the Defendant requests:

1. Dismissal of Plaintiffs' action with prejudice;
  2. An order that Plaintiffs shall take no relief from the Complaint;
  3. The costs of suit incurred, including attorneys' fees, if authorized by law;
- and
4. Such further relief the Court deems fair and just.

Dated: September 1, 2016

BREMER WHYTE BROWN & O'MEARA

By: 

Patrick Au, Esq.  
Laura L. Bell, Esq.  
Attorneys for Defendants,  
FRANK FERRARA and CHARLIE  
FERRARA

**PROOF OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 21271 Burbank Boulevard, Suite 110, Woodland Hills, California 91367.

On September 1, 2016, I served the within document(s) described as: **DEFENDANT, CHARLIE FERRARA'S ANSWER TO THE CLASS ACTION COMPLAINT** on the interested parties in this action as stated on the attached mailing list.

☒ (BY ELECTRONIC SERVICE) Complying with Code of Civil Procedure § 1010, I caused such document(s) to be Electronically Filed and Served through the United States District Court for the above-entitled case. Upon completion of transmission of said document(s), a filing receipt is issued to the filing party acknowledging receipt, filing and service by 's system. A copy of the filing receipt page will be maintained with the original document(s) in our office.

Executed on September 1, 2016, at Woodland Hills, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Shawn Reutter  
(Type or print name)

*Shawn Reutter*  
(Signature)



**Cory Spencer v. Lunada Bay Boys et al.,**

**Case No. 2:16-cv-2129-SJO**

**BWB&O CLIENT: Frank and Charlie Ferrara**  
**BWB&O FILE NO.: 1178.176**

**SERVICE LIST**

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## **Exhibit C**

UNITED STATES DISTRICT COURT  
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CIVIL MINUTES - GENERAL

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CASE NO.: CV 16-02129 SJO (RAOx) DATE: July 11, 2016

TITLE: Spencer et al. v. Lunada Bad Boys et al.

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PRESENT: THE HONORABLE S. JAMES OTERO, UNITED STATES DISTRICT JUDGE

Victor Paul Cruz	Not Present
Courtroom Clerk	Court Reporter

COUNSEL PRESENT FOR PLAINTIFFS: COUNSEL PRESENT FOR DEFENDANTS:

Not Present Not Present

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PROCEEDINGS (in chambers): ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS CITY OF PALOS VERDES ESTATES AND CHIEF OF POLICE JEFF KEPLEY'S MOTION TO DISMISS COMPLAINT [Docket No. 30]

This matter is before the Court on Defendants City of Palos Verdes Estates ("City") and Chief of Police Jeff Kepley's ("Chief Kepley") (together, "City Defendants") Motion to Dismiss Complaint ("Motion"), filed June 3, 2016. Plaintiffs Cory Spencer ("Spencer"), Diana Milena Reed ("Reed"), and Coastal Protection Rangers, Inc. ("CPRI") (together, "Plaintiffs") opposed the Motion ("Opposition") on June 20, 2016, and City Defendants replied ("Reply") on June 27, 2016. The Court found this matter suitable for disposition without oral argument and vacated the hearing set for July 11, 2016. See Fed. R. Civ. P. 78(b). For the following reasons, the Court **GRANTS IN PART** and **DENIES IN PART** the City Defendants' Motion.

I. FACTUAL AND PROCEDURAL BACKGROUND

Plaintiffs allege the following in their Class Action Complaint ("Complaint"), filed March 29, 2016. California residents Spencer and Reed are, among other things, experienced surfers and avid beachgoers who have been unlawfully excluded from recreational opportunities at Palos Verdes Estates parks, beaches, and access to the ocean. (See Compl. ¶¶ 1-2, ECF No. 1.) CPRI is a California non-profit entity "dedicated to enforcing the California Coastal Act and protecting California's beaches and ensuring that they are safe and accessible to all visitors." (Compl. ¶ 3; Request for Judicial Notice ("RJN"), Ex. A, ECF No. 31.<sup>1</sup>)

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<sup>1</sup> City Defendants filed a Request for Judicial Notice in tandem with their Motion, asking the Court to take judicial notice of the California Secretary of State's Business Entity Detail report for CPRI, among other materials. (See RJN.) Plaintiffs do not challenge the RJN, and the Court finds that judicial notice of this publicly available document to be proper pursuant to Federal Rule of Evidence 201(b).

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The City, renowned for its natural beauty, is home to approximately 13,500 residents and more than 40 police personnel. (Compl. ¶ 15.) The City owns Lunada Bay, a public beach that constitutes Southern California's "premier big-wave break." (Compl. ¶¶ 16-17.) Lunada Bay is also, however, one of the surfing world's "best-known area[s] for localism," a territorial practice whereby resident surfers attempt to exclude nonresident beachgoers and surfers through threats, intimidation, and violence. (Compl. ¶ 17.)

Defendant Lunada Bay Boys ("LBB") is a criminal street gang that has practiced a particularly "severe" form of localism since the early 1970s. (Compl. ¶¶ 3-5, 17-18.) LBB "knowingly built and maintains an unpermitted masonry-rock-and-wood fort and seating area ('Rock Fort') in violation of the California Coastal Act," where it conducts criminal activity. (Compl. ¶¶ 3-5.) Moreover, LBB has built and maintains a steep trail from a 100-foot bluff called the "Goat Trail," and stores recreational items and maintains a campfire ring with seating near the base of this trail. (Compl. ¶ 18.) LBB sells, markets, and uses illegal controlled substances from the Lunada Bay bluffs and the Rock Fort, and uses the gang's name to confront, threaten, intimidate, and harass non-local beachgoers through a variety of tactics. (Compl. ¶ 18.) Some of the more egregious tactics include (1) throwing rocks; (2) running people over with surfboards; (3) punching non-locals; (4) shooting surfers and beachgoers with pellet guns; (5) stealing wallets, wetsuits and surfboards; (6) vandalizing vehicles and personal property, including by slashing tires and waxing ethnic slurs onto windows; (7) levying threats against non-locals; and (8) sharing photographs and videos that they take of visitors. (Compl. ¶ 18.)

LBB is not unfamiliar to the City's Police Department, but "[f]or many decades" complaints made by victims of LBB have gone unanswered. (Compl. ¶ 15.) For example, several of the aforementioned tactics were caught on camera and shown to officers of the City's Police Department. (Compl. ¶¶ 19-20.) In response to this report, one officer stated the following:

We know all of them. They are infamous around here. They are pretty much grown men in little men's mindset. They don't like anyone that's not one of The Bay Boys, surfing down there. It literally is like a game with kids on a school yard to them and they don't want you playing on their swing set, but, you know, **it is what it is. If you feel uncomfortable, you know, then don't do it.**

(Compl. ¶ 20 (emphasis added).) Spencer and Reed have also been victimized by LBB, but their reports to the police department fell on deaf ears. (Compl. ¶¶ 21-27.) When Spencer complained to Chief Kepley and encouraged an undercover investigation after he was verbally and physically assaulted by members of the LBB, Chief Kepley responded merely by noting that the City's police department had considered various enforcement strategies, and "had talked with various surfers in an effort to educate them on the position we are in, and what needs to change in terms of acceptable behavior on their part." (Compl. ¶ 21.) Similarly, after Reed was verbally assaulted by members of LBB in the presence of a police officer, the officer asked her if she wanted to make a "citizen's arrest," which is permitted under California Penal Code section 837, notwithstanding that police were already on the scene and that other members of LBB were nearby. (Compl. ¶ 22,

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n. 19.) Chief Kepley has described LBB as "a long term problem," and stated that "[i]f I could fix this, I would." (Compl. ¶ 27.)

Plaintiffs seek to represent a class of at least several thousand members who reside outside the City and who desire "lawful, safe, and secure access to Lunada Bay to engage in recreational activities." (Compl. ¶ 30.) Plaintiffs assert the following eight causes of action against defendants: (1) violation of the Bane Act, California Civil Code § 52.1(b), against LBB and certain members of the group ("Individual Defendants");<sup>2</sup> (2) public nuisance pursuant to California Civil Code §§ 3479 and 3480 against LBB and Individual Defendants; (3) violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution pursuant to 42 U.S.C. § 1983 ("§ 1983") against City Defendants ("Equal Protection Claim"); (4) violation of the Privileges and Immunities Clause of Article IV of the United States Constitution pursuant to § 1983 against City Defendants ("P&I Claim"); (5) violation of various provisions of the California Coast Act against all defendants ("Coastal Act Claim"); (6) assault against LBB and Individual Defendants; (7) battery against LBB and Individual Defendants; and (8) negligence against LBB and Individual Defendants. (See *generally* Compl. ¶¶ 43-106.) Plaintiffs allege this Court has subject-matter jurisdiction over Individual Defendants under 28 U.S.C. § 1333 (admiralty or maritime jurisdiction), Article III, § 2 of the United States Constitution, and 28 U.S.C. § 1367 (supplemental jurisdiction). (Compl. ¶¶ 11-12.)

## II. DISCUSSION

City Defendants ask the Court to dismiss Plaintiffs' Equal Protection, P&I, and Coastal Act Claims—the sole claims asserted against the them—for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) ("Rule 12(b)(6)"). (See *generally* Mot., ECF No. 30.) With respect to both the **Equal Protection** and **P&I Claims**, City Defendants argue (1) that liability does not attach to a city official or to the city based on a theory of respondeat superior; (2) that events that occurred more than two years prior to the filing of the Complaint are time-barred; and (3) that CPRI, which is not an individual, lacks standing to pursue these claims. (See *generally* Mot.) With respect to the **Equal Protection Claim**, City Defendants further argue that Plaintiffs allege no facts to establish an equal protection claim because they have not alleged (1) that they are members of a protected class; (2) that either the City or Chief Kepley acted with discriminatory intent; (3) that a governmental action cause any violation; (4) that any specific federal or constitutional right has been violated; (5) that they were treated differently from other similarly situated individuals to establish a "class of one" equal protection claim; or (6) that the City or Chief Kepley acted with malice, which is required to satisfy a "class of one" equal protection claim. (See *generally* Mot.) With respect to the **P&I Claim**, City Defendants contend that Plaintiffs fail to state a claim because (1) they are not out-of-state residents; (2) they have failed to identify a protectable right; and (3) no duty to protect applies because there is no allegation that the City or

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<sup>2</sup> The Individual Members identified in the Complaint are Alan Johnston, Sang Lee, Brant Blakeman, Angelo Ferrara, Frank Ferrara, Charlie Ferrara, N. F., and Michael Rae Papayans. (Compl. ¶ 7.)



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Chief Kepley affirmatively created a dangerous environment that would not otherwise have existed. (See *generally* Mot.) Finally, with respect to the **Coastal Act Claim**, City Defendants argue dismissal is warranted (1) because *Burford* abstention applies; (2) the claim is not ripe because Plaintiffs have failed to exhaust their administrative remedies; (3) no basis for injunctive relief has been sufficiently pled; (4) there is no basis for fines and penalties for any violation occurring more than three years before Plaintiffs knew of the alleged violation; and (5) any administrative fines under the California Coastal Act would not be payable to Plaintiffs. (See *generally* Mot.)

Plaintiffs respond by arguing that courts should not apply a heightened pleading standard to civil rights complaints against municipalities, and that the bulk of City Defendants' cases concerned the summary judgment stage. (Opp'n 2, ECF No. 48.) Plaintiffs further contend that City Defendants fail to address Plaintiffs' § 1983 claims which are based on (1) a policy, practice, or custom of the City that distinguishes one group of persons (residents) from another (non-residents) without any rational basis; and (2) that such policy, practice or custom arbitrarily and unreasonably interferes with Plaintiffs' right to enter public lands. (Opp'n 2.) Plaintiffs additionally argue that the City's arguments concerning statutes of limitations ignore the continuing violations doctrine. (Opp'n 2.) Finally, Plaintiffs argue that (1) the Coastal Act invites citizens' lawsuits like this one; (2) the City has failed to obtain coastal development permits for structures in the coastal zone; and (3) the City's response has encouraged the Bay Boys to block access to the beach. (Opp'n 2.)

A. Legal Standards

1. Rule 12(b)(6)

"Rule 12(b)(6), which tests the legal sufficiency of the claims asserted in the complaint, must be read in conjunction with Rule 8, which requires a 'short and plain statement showing that the pleader is entitled to relief . . .'" *Ileto v. Glock Inc.*, 349 F.3d 1191, 1199-1200 (9th Cir. 2003). Although the pleader is not required to plead "detailed factual allegations" under Rule 8, this standard demands "more than a sheer possibility that a defendant has acted unlawfully." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation omitted). Pleadings that contain nothing more than legal conclusions or "a formulaic recitation of the elements of a cause of action" are insufficient. *Id.* (citation and quotation marks omitted).

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Id.* (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). Where a complaint pleads sufficient facts "to raise a right to relief above the speculative level," a court may not dismiss the complaint under Rule 12(b)(6). See *Twombly*, 550 U.S. at 545. In reviewing a motion to dismiss under Rule 12, a court may only consider the complaint, documents incorporated by reference in the complaint, and matters of judicial notice. *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003). Federal courts may not apply a standard "more stringent than the usual pleading requirements of Rule 8(a)" in "civil

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rights cases alleging municipal liability." *Leatherman v. Tarrant Cnty. Narcotics Intelligence and Coordination Unit*, 507 U.S. 163, 164 (1993).

2. § 1983 and Municipal Liability

42 U.S.C. § 1983 provides that

[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . . .

42 U.S.C. § 1983. "Local governing bodies . . . can be sued directly under § 1983 for monetary, declaratory, or injunctive relief where . . . the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers." *Monell v. Dep't of Social Servs. of City of N. Y.*, 436 U.S. 658, 690 (1978). Moreover, local governments "may be sued for constitutional deprivations visited pursuant to governmental 'custom' even though such a custom has not received formal approval through the body's official decisionmaking channels." *Id.* at 691. That said, "a municipality cannot be held liable **solely** because it employs a tortfeasor—or, in other words, a municipality cannot be held liable under § 1983 on a **respondeat superior** theory." *Id.* (emphasis in original).

3. The Equal Protection Clause of the Fourteenth Amendment

"The Equal Protection Clause of the Fourteenth Amendment commands that no State shall 'deny to any person within its jurisdiction the equal protection of the laws,' which is essentially a direction that all persons similarly situated should be treated alike." *City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985) (quoting U.S. Const. amend. XIV, § 1). "Section 5 of the Amendment empowers Congress to enforce this mandate, but absent controlling congressional direction, the courts have themselves devised standards for determining the validity of state legislation or other official action that is challenged as denying equal protection." *Id.* at 439-40. "The general rule is that legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest." *Id.* (citations omitted). "When social or economic legislation is at issue, the Equal Protection Clause allows the States wide latitude . . . and the Constitution presumes that even improvident decisions will eventually be rectified by the democratic process." *Id.* (citations omitted). Where, however, a statute classifies by race, alienage, national origin, gender, or other "suspect statuses," a heightened standard of review is applied. *Id.* at 440-42 (noting that laws classifying by race, alienage, and national origin "are subjected to strict scrutiny and will be sustained only if they are suitably tailored to serve a compelling state interest," while those classifying based on gender "will survive equal protection scrutiny to the extent they are substantially related to a legitimate state interest").

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"Although *City of Cleburne* involved a challenge to legislation, the rational basis test is equally applicable to an unwritten policy or practice." *Sanchez v. City of Fresno*, 914 F. Supp. 2d 1079, 1111-12 (E.D. Cal. 2012). For example, in *Lazy Y Ranch Ltd. v. Behrens*, 546 F.3d 580 (9th Cir. 2008), the Ninth Circuit Court of Appeals applied a rational basis analysis to an applicant's challenge to an Idaho land management agency's unwritten practice of requiring more specific grazing management plans from permit applicants associated with conservation interests than from those without such associations. California district courts adhere to this principle. See *O'Haire v. Napa State Hosp.*, No. C 07-00002 RMW (PR), 2009 WL 2447752 (N.D. Cal. Aug. 7, 2009) (challenge to unwritten policy intentionally discriminating against homosexuals without rational basis stated valid equal protection claim).

An equal protection claim can lie where plaintiff can establish that he is a "class of one" in that he "has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment." *Village of Willowbrook v. Olech*, 528 U.S. 562 (2000).

4. The Privileges and Immunities Clause of the Fourteenth Amendment

The Privileges and Immunities Clause of Article IV of the United States Constitution provides that "[t]he citizens of each State shall be entitled to all the Privileges and Immunities of Citizens in the several States." U.S. Const. art. IV, § 2, cl. 1. "Application of the Privileges and Immunities Clause to a particular instance of discrimination against out-of-state residents entails a two-step inquiry." *United Bldg. & Constr. Trades Council of Camden County and Vicinity v. Mayor & Council of City of Camden* ("*Camden*"), 465 U.S. 208, 218 (1984). "As an initial matter, the court must decide whether the ordinance burdens one of those privileges and immunities protected by the Clause." *Id.* (citing *Baldwin v. Montana Fish and Game Comm'n*, 436 U.S. 371, 383 (1978)). If the court finds that the contested restriction falls within the Clause's ambit, the court will deem the restriction unconstitutional if the state cannot show that it is "closely related to the advancement of a substantial state interest." *Council of Ins. Agents & Brokers v. Molasky-Arman*, 522 F.3d 925, 936 (9th Cir. 2008) (quoting *Supreme Court of Va. v. Friedman*, 487 U.S. 59, 64 (1988)).

B. Analysis

1. Plaintiffs Have Adequately Alleged an Equal Protection Claim

In their Motion, City Defendants first argue that Plaintiffs' Equal Protection Claim must be dismissed because Plaintiffs fail to allege (1) that they are members of a protected class; (2) that any of their fundamental rights have been violated; or (3) that they are a "class of one." (See Mot. 3-9.) City Defendants also contend that Plaintiffs' Equal Protection Claim is time-barred as to events occurring prior to March 29, 2014. (Mot. 12.)

In response, Plaintiffs admit that their Equal Protection Claim, as currently pled, "is not borne out of their membership in a protected class, a fundamental right, or a 'class of one' theory." (Opp'n 7.) Rather, they contend that their claim arises from the premise "when a policy [practice, or

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custom] distinguishes one group of persons from another, that distinction must be rationally related to a legitimate governmental purpose," citing *Sanchez v. City of Fresno*. (Opp'n 7.)

The Court agrees with Plaintiffs that the only the "rational basis" test is being invoked in the Complaint, and concludes that Plaintiffs have succeeded in alleging their Equal Protection Claim to the satisfaction of Rule 8(a), *Twombly*, and *Iqbal*. "The first step in equal protection analysis is to identify the [defendants'] classification of groups." *Country Classic Dairies, Inc. v. State of Montana, Dep't of Commerce Milk Control Bureau*, 847 F.2d 593, 596 (9th Cir. 1988). "To accomplish this, a plaintiff can show that the law is applied in a discriminatory manner or imposes different burdens on different classes of people." *Freeman v. City of Santa Ana*, 68 F.3d 1180, 1187 (9th Cir. 1995).

The Ninth Circuit has held that "in an equal protection claim based on selective enforcement of the law, a plaintiff can show that a defendant's alleged rational basis for his acts is a pretext for an impermissible motive." *Engquist v. Or. Dep't of Agric.*, 478 F.3d 985, 993 (9th Cir. 2007) (citing *Squaw Valley Dev. Co. v. Goldberg*, 375 F.3d 936, 944 (9th Cir. 2004)). Moreover, in *Romer v. Evans*, 517 U.S. 620 (1996), the United States Supreme Court found that an amendment to the Colorado Constitution prohibiting all legislative, executive, or judicial action designed to protect homosexual individuals from discrimination violated the Equal Protection Clause of the Fourteenth Amendment. The Court held that such a law "raise[d] the inevitable inference that the disadvantage imposed is born of animosity toward the class of persons affected." *Id.* at 634. The Court went on to note that "if the constitutional conception of 'equal protection of the laws' means anything, it must at the very least mean that a bare . . . desire to harm a politically unpopular group cannot constitute a legitimate governmental interest." *Id.*

In this case, Plaintiffs allege that the City Defendants treat one group—residents of the City—differently than they treat another group—nonresidents visiting the City's beaches, including Lunada Bay. In particular, Plaintiffs allege that the City has a "long history of deliberate indifference of not investigating or otherwise policing acts of violence and vandalism against visiting beachgoers." (Compl. ¶ 15.) Plaintiffs also allege that the City "tolerates the unlawful activity of the LUNADA BAY BOYS against nonlocal beachgoers because the 40-member police force is designed to keep [the City] for locals only." (Compl. ¶ 15.) Other allegations in the Complaint detail with some particularity the police departments' refusals to respond to attacks by members of the LBB upon nonresident beachgoers. (See Compl. ¶¶ 19-22, 24-27.) Indeed, Plaintiffs allege that one officer, after admitting that the police department "know[s] all" of the "infamous" LBB members, who famously "don't like anyone that's not one of The Bay Boys," stated that "it is what it is," and "[i]f you feel uncomfortable, you know, then don't do it." (Compl. ¶ 20.) Plaintiffs additionally allege that a group officers, after witnessing Plaintiff Reed being assaulted by members of the LBB, (1) declined to arrest the assailant; (2) asked her if she would like to make a "citizen's arrest;" and (3) mistakenly assured her that her case "would be handled by the District Attorney with the same result." (Compl. ¶ 22.) When Reed returned to Lunada Bay to document the LBB's activities, an officer asked her "[w]hy would a woman want to go to that beach and the Rock Fort anyways," and the police thereafter failed to return her calls to set a time to identify the LBB members who had harassed her. (Compl. ¶ 27.) When Reed was finally

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granted an audience with the police department, Chief Kepley stated that he "wish[ed] it was safe [at Lunada Bay], but it's not," and another officer stated that "there are judges and lawyers that surf out there." (Compl. ¶ 27.)

Even after removing the conclusory language from these allegations, the factual content contained therein is sufficient to provide City Defendants "fair notice of what the . . . claim is and the grounds upon which it rests." *Conley v. Gibson*, 355 U.S. 41, 47 (1957). Although City Defendants bemoan the absence of allegations regarding how members of the LBB and residents of the City are treated by City Defendants, in light of the nature of the charges in this case, such allegations are not required. Plaintiffs allege that members of the LBB are dedicated to keeping nonresidents away from Lunada Bay, and that the City tolerates this behavior with the like-minded intent "to keep [the City] for locals only." (Compl. ¶ 15.)

Plaintiffs have thus plausibly alleged an Equal Protection Claim against City Defendants, and the Court **DENIES** City Defendants' Motion on this basis.<sup>3, 4</sup>

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<sup>3</sup> City Defendants argue that Plaintiffs' Equal Protection and Privileges and Immunities Claims "are time-barred for any claimed violation occurring two years before March 4, 2016." (Mot. 12.) City Defendants do not, however, dispute that the vast majority of the allegations in Plaintiffs' Complaint occurred within the past two years, and thus do not contend that Plaintiffs cannot seek declaratory and injunctive relief based upon such alleged conduct. (See *generally* Mot. 12; Reply 3-4, ECF No. 74.) Rather, they appear to request summary adjudication that Plaintiffs cannot recover against City Defendants for events occurring prior to this critical date. (See Reply 4.) Plaintiffs, however, do not seek monetary relief from City Defendants for their alleged violations of the Equal Protection and Privileges and Immunities Clauses. (See Compl. pp. 40-42.) Accordingly, the Court **DENIES** City Defendants' Motion as to this issue.

<sup>4</sup> The Court also rejects City Defendants' Article III standing argument, (see Mot. 12-13), both because Article III standing is not among the bases on which City Defendants moved for dismissal, (see Mot. 2-3), and because the cases they cite are inapposite to this case, in which Plaintiffs allege that they have been and will continue to be directly harmed by City Defendants' selective enforcement of their laws vis-a-vis residents and nonresidents, (see Compl. ¶¶ 1-2, 18-28, 61-69). To the extent City Defendants' challenge is predicated on a belief that Plaintiffs have not suffered an "actual injury," such an argument concerns the merits of Plaintiffs' claims. The Court thus **DENIES** City Defendants' Motion on this basis.



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2. Plaintiffs' Privileges and Immunities Claim Fails for Two Reasons

City Defendants next challenge Plaintiffs' Privileges and Immunities Claim, arguing (1) that Plaintiffs Spencer and Reed lack standing because they are residents of California; (2) that the right to recreate is not a protected right; and (3) that the City Defendants have no duty to protect Plaintiffs. (See Mot. 9.) Plaintiffs respond by arguing (1) that "the fact that Plaintiffs are in-state residents nonetheless entitles them to the protection of the Privileges and Immunities Clause of Article IV of the U.S. Constitution just the same as if they were out-of-state residents;" (2) that their right to enter public lands is a protectable interest; and (3) that City Defendants' "duty to protect" argument is misplaced.

Plaintiffs misunderstand the purpose and scope of the Privileges and Immunities Clause. *Camden*, a case cited by both Plaintiffs and City Defendants, concerned an ordinance adopted by the city of Camden, New Jersey, that required at least 40% of the employees of contractors and subcontractors working on city construction projects be Camden residents. The United States Supreme Court began by "quickly reject[ing]" the respondents' argument that the "Clause only applies to laws passed by a **State**." 465 U.S. 208, 214 (1984) (emphasis in original). The Court held that "[t]he fact that the ordinance in question is a municipal, rather than a state, law does not somehow place it outside the scope of the Privileges and Immunities Clause." *Id.*

The Court also rejected respondents' effort to have the "Clause only appl[y] to laws that discriminate on the basis of **state** citizenship." *Id.* (emphasis in original). In rejecting such a literal interpretation, the Court noted that "the terms 'citizen' and 'resident' are 'essentially interchangeable' . . . for purposes of analysis of most cases under the Privileges and Immunities Clause." *Id.* at 216. The Court noted, however, that although "New Jersey citizens not residing in Camden will be affected by the ordinance as well as out-of-state citizens," such "**disadvantaged New Jersey residents have no claim under the Privileges and Immunities Clause**." *Id.* at 217 (emphasis added) (citing *The Slaughter-House Cases*, 16 Wall. 36, 77, 21 L.Ed. 394 (1872)). This is because such residents "at least have a chance to remedy at the polls any discrimination against them," while "[o]ut-of-state citizens have no similar opportunity." *Id.* Thus, the Court "conclude[d] that Camden's ordinance is not immune from constitutional review **at the behest of out-of-state residents** merely because some in-state residents are similarly disadvantaged." *Id.* (emphasis added).

Plaintiffs allege that Spencer and Reed are residents of California. (Compl. ¶¶ 1-2.) As such, they are not capable of challenging a California municipality's policy or practice under the Privileges and Immunities Clause. Moreover, because CPRI is a corporation, (RJN, Ex. A), it is not considered a "citizen" within the meaning of the Privileges and Immunities Clause, and therefore is not entitled "to all privileges and immunities . . . in the several states." *Blake v. McClung*, 172 U.S. 239, 19 S. Ct. 165 (1898); *see also Pelican Chapter, Associated Builders & Contractors, Inc. v. Edwards*, 901 F. Supp. 1125, 1133 (M.D. La. 1995).

Moreover, Plaintiffs assert in their Opposition that "the right to enter public lands, including tidal lands, is a well-established protectable right in California." (Opp'n 12 (citing Cal. Const., art. X § 4;

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Cal. Gov't Code § 66478.3; *Gion v. Santa Cruz*, 2 Cal.3d 29, 42 (1970)).) Section 1983, however, "safeguards certain rights conferred by federal statutes," and "in order to seek redress through § 1983 . . . , a plaintiff must assert the violation of a federal **right**, not merely a violation of federal **law**." *Blessing v. Freestone*, 520 U.S. 329, 340 (1997) (emphasis in original). Plaintiffs have not identified a federal right that is protectable under the Privileges and Immunities Clause

The Court therefore **GRANTS IN PART** the City Defendants' Motion and **DISMISSES** Plaintiffs' Privileges and Immunities Claim **without leave to amend**.

3. The Court Abstains from Hearing Plaintiffs' California Coastal Act Claim

City Defendants raise five arguments in support of their Motion as to why Plaintiffs' California Coastal Act Claim should be dismissed. First, City Defendants contend that the Court should apply the *Burford* abstention doctrine and abstain from exercising jurisdiction as to this cause of action. (Mot. 13-15.) City Defendants next argue that this cause of action is not ripe and that there is no definite and concrete controversy to adjudicate. (Mot. 16-18.) They further contend that Plaintiffs have not demonstrated a basis for injunctive relief, both because they have not alleged facts regarding how they would be irreparably injured by the continued existence of the structures on the beach at Lunada Bay and because they have an adequate remedy at law that has not been exhausted. (Mot. 18.) Fourth and fifth, City Defendants argue that Plaintiffs' request for civil fines or penalties are time-barred, and in any event, any administrative fines would not be payable to Plaintiffs. (Mot. 18-19.) Plaintiffs respond in kind. (Opp'n 16-20.) Because the Court concludes that abstention under *Burford* is appropriate in this case, it need not consider City Defendants' subsidiary arguments.

a. Burford Abstention

The *Burford* abstention doctrine stems from *Burford v. Sun Oil Co.*, 319 U.S. 315 (1943), a case in which the United States Supreme Court held that "[a]lthough a federal equity court does have jurisdiction over a particular proceeding, it may, in its sound discretion . . . refuse to enforce or protect legal rights, the exercise of which may be prejudicial interest; for it is in the public interest that federal courts of equity should exercise their discretionary power with proper regard for the rightful independence of state governments in carrying out their domestic policy." 319 U.S. 315, 317-18 (1943) (internal citations and quotation marks omitted). In *New Orleans Public Service, Inc. v. Council of City of New Orleans* ("*NOPSI*"), the Supreme Court summarized the requirements of the *Burford* abstention doctrine as follows:

Where timely and adequate state-court review is available, a federal court sitting in equity must decline to interfere with the proceedings or orders of state administrative agencies: (1) when there are "difficult questions of state law bearing on policy problems of substantial public import whose importance transcends the result in the case then at bar"; or (2) where the "exercise of federal review of the question in a case and in similar cases would be disruptive of state efforts to establish a coherent policy with respect to a matter of substantial public concern."

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491 U.S. 350, 361 (1989) (quoting *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 814 (1976)). The Court of Appeals for the Ninth Circuit takes a slightly more restrictive approach, requiring showings "(1) that the state has concentrated suits involving the local issue in a particular court; (2) the federal issues are not easily separable from complicated state law issues with which the state courts may have special competence; and (3) that federal review might disrupt state efforts to establish a coherent policy." *Tucker v. First Md. Savings & Loan, Inc.*, 942 F.2d 1401, 1405 (9th Cir. 1991). Application of these factors "only rarely favors abstention, and the power to dismiss recognized in *Burford* represents an 'extraordinary and narrow exception to the duty of the District Court to adjudicate a controversy properly before it.'" *Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706, 728 (1996) (quoting *Colorado River*, 424 U.S. at 813).

The parties dispute the applicability of *Beck v. State of California*, 479 F. Supp. 392 (C.D. Cal. 1980), to the instant case. In *Beck*, the plaintiff, an individual desiring to construct a single-family residence on his Malibu real property, brought a challenge to the then-recently enacted California Coastal Act of 1976 after his applications to construct the residence were denied by both the Regional and State Commissions. Plaintiff argued that various defendants (1) deprived him of all use and enjoyment of his property in violation of the Fourteenth Amendment's Due Process Clause; (2) deprived him under § 1983 of a valuable civil right; and (3) acting in concert, conspired under 42 U.S.C. section 1985 to deprive him of his civil rights. *Id.* at 395. The district court in *Beck* found that abstention under the *Burford* doctrine was appropriate in light of the following:

The California coastline is a unique and valuable resource of that state. In order to protect that resource, the people of that state enacted extensive legislation providing for a complex system of regulation with state controls ultimately yielding to local control with state supervision through the local adoption and state approval of local coastal plans. The legislation provides for an interim permit procedure until those local plans are adopted and approved. The coastal acts specifically provide a system of recourse for the permit applicant and a particularized system of review. Furthermore, the California Supreme Court in *Agins v. City of Tiburon*, 23 Cal.3d 605, 157 Cal. Rptr. 372, 598 P.2d 25 (1979), in holding that a plaintiff may not recover damages on the theory of inverse condemnation, has established a policy in the state which dictates that "taking" actions must be handled in a particularized fashion.

*Id.* at 400. Plaintiffs attempt to distinguish *Beck* by noting that the district court in that case (1) considered a pending parallel state court action; (2) was dealing with a then-new California regulatory scheme; (3) was evaluating California land use issues; and (4) noted that the dispute was primarily about money, and that an action seeking prospective injunctive relief if the state proceedings were stayed would be appropriate. (Opp'n 17.)

The Court does not find any of these arguments to be persuasive. First, the district court in *Beck* did not rely on either the first or fourth point in reaching its conclusion as to the appropriateness of abstaining on *Burford* grounds. Accordingly, that Plaintiffs seek only injunctive, rather than monetary, relief is inapposite to the *Burford* abstention inquiry. Nor did the Court in *Beck* suggest

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that the "newness" of the California Coastal Act bore any relation to its decision whether to abstain; indeed, the notion that California "enacted **extensive legislation** providing for a **complex system of regulation** with state controls ultimately yielding to local control with state supervision through the local adoption and state approval of local coastal plans" has not changed since the enactment of the California Coastal Act. *Beck*, 479 F. Supp. at 400 (emphasis added). Plaintiffs' unsupported assertion that "these Coastal Act claims are not complex or controversial" in light of allegations contained in a letter sent by one California Coastal Commission employee thus misses the mark. (See Opp'n 17.)

Moreover, Plaintiffs ask the Court in this case to "evaluat[e] California land use issues," including (1) whether the City should have required members of the LBB to obtain a coastal development permit before constructing the Rock Fort; (2) whether the Rock Fort is exempt from these permitting requirements as an "excluded development;" (3) whether the LBB's conduct toward non-residents constitutes "development" under the Coastal Act and the Palos Verdes Estates' Local Coastal Program; and (4) whether the Rock Fort should be demolished. Plaintiffs allege that on January 21, 2016, an enforcement analyst for the California Coastal Commission sent Chief Kepley a letter noting that "[p]recluding full public use of the coastline . . . whether through physical devices . . . or nonphysical impediments, such as threatening behavior intended to discourage public use of the coastline, . . . constitutes development under the Coastal Act and the Palos Verdes Estates LCP." (Compl., Ex. 18.) The letter also states that the Commission has received reports of unpermitted structures, including stone forts, constructed on the shoreline of Lunada Bay, and invites Chief Kepley to "meet to discuss this matter and collaborate with the City in their efforts to ensure enjoyment of the coastline by all Californians and visitors alike." (Compl. Ex. 18.) The possibility that the City, Chief Kepley, and the Commission might come together to address access issues and Lunada Bay and determine which permits are or are not required under the Act and the City's LCP—as part of the Commission's administrative process or otherwise—underscores both the importance of the administrative process to the City's efforts to "establish a coherent policy" and the intricate relationship between the federal and state issues presented in this case—namely, providing nonresidents access to public waters. *Tucker*, 942 F.2d at 1405. Notably, although Plaintiffs correctly state that California Public Resources Code section 30803 authorizes "[a]ny person [to] maintain an action for declaratory and equitable relief to restrain any violation of this division," Cal. Pub. Res. Code § 30803, they cite no authority indicating that an individual or group may challenge a municipality's failure to require others' obtaining a coastal development permit prior to constructing a "development" in a coastal zone.

Here, as in *Beck*, the Court concludes that *Burford* abstention is appropriate given the Court's reticence "to interfere with the local administration of local laws." *Beck*, 479 F. Supp. at 400. Unlike in *Beck*, however, the Court concludes that dismissal of Plaintiffs' Coastal Act Claim—the typical remedy in *Burford* abstention cases—is appropriate, particularly given the uncertainty surrounding enforcement efforts that might be taken by the Commission and/or the City itself vis-à-vis the Rock Fort and the actions of the LBB. The Court accordingly **DISMISSES** Plaintiffs' fifth cause of action for violation of the California Coastal Act as to the City Defendants **without leave to amend**.

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III. CONCLUSION

For the foregoing reasons, the Court **GRANTS IN PART** and **DENIES IN PART** Defendants City of Palos Verdes Estates and Chief of Police Jeff Kepley's Motion to Dismiss Complaint. Plaintiffs' fourth cause of action for violation of the Privileges and Immunities Clause pursuant to 42 U.S.C. § 1983 and fifth cause of action for violation of the California Coastal Act are **DISMISSED without leave to amend** as to Defendants City of Palos Verdes Estates and Chief of Police Jeff Kepley, in his representative capacity. Defendants City of Palos Verdes Estates and Chief of Police Jeff Kepley have fourteen (14) days from the issuance of this Order to respond to the remainder of Plaintiffs' Complaint.

IT IS SO ORDERED.



## **Exhibit D**

UNITED STATES DISTRICT COURT  
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*previously filed  
& served initial  
disclosures.*

**CIVIL MINUTES - GENERAL**

Case No. CV 16-02129 SJO (RAOx) Date August 29, 2016  
Title Cory Spencer et al v. Lunada Bay Boys et al

Present: The Honorable S. JAMES OTERO

Victor Paul Cruz  
Deputy Clerk

Carol Zurborg  
Court Reporter

Tape No.

Attorneys Present for Plaintiffs:

Kurt A. Franklin  
Victor J. Otten

Attorneys Present for Defendants:

Tera A. Lutz  
John P. Worgul  
Richard P. Dieffenbach  
Peter T. Haven  
Mark Fields  
Edwin J. Richards, Jr.  
L. William Locke

**Proceedings:** SCHEDULING CONFERENCE

Matter called.

Counsel for Defendant Alan Johnston is not present.

Attorney William Locke advises the Court that his firm will represent defendants Frank Ferrara and Charlie Ferrara. The Court Orders that two said defendants will file an answer to the complaint by Friday, September 2, 2016.

The parties stipulate that the Court's order of 7/11/16 shall apply to all defendants.

The Court sets the following schedule:

The filing of a Motion for Class Certification shall be Friday, December 30, 2016; Opposition shall be due by January 13, 2017; Reply due Friday, January 20, 2017; Hearing on motion shall be set for Tuesday, February 21, 2017 @ 10:00 a.m.

Jury Trial: Tuesday, November 7, 2017 @ 9:00 a.m.

Pretrial Conference: Monday, October 23, 2017 @ 9:00 a.m.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

Case No. CV 16-02129 SJO (RAOx) Date August 29, 2016

Title Cory Spencer et al v. Lunada Bay Boys et al

Motion Cutoff: Monday, August 21, 2017 @ 10:00 a.m.

Discovery Cutoff: Monday, August 7, 2017

Last Date to Amend: Not provided

Reference of the above case to the Alternative Dispute Resolution Program is vacated.  
Settlement is referred to Private Mediation for all further proceedings.

All discovery disputes are to be brought before the Magistrate Judge assigned to the case.  
The parties are reminded of their obligations under Fed. R. Civ. P. 26-1(a) to disclose  
information without a discovery request.

Court advises counsel that all Pretrial documents must be filed in compliance with  
the Court's standing order, including but not limited to:

1. All Jury Instructions, agreed and opposed;
2. Verdict Forms;
3. Proposed Voir Dire Questions;
4. Agreed-To Statement of Case;
5. Witness List, listing each witness and time estimates to conduct direct, cross,  
redirect and recross;
6. Trial Brief and Memorandum of Contentions;
7. Joint Rule 26(f) Report;
8. If Court Trial, file Findings of Fact and Conclusions of Law and summaries of  
direct testimony at Pretrial Conference;
9. Motions in Limine are to be filed according to Local Rule 7 and will be heard at  
9:00 a.m. the first day of trial;
10. Exhibits properly labeled, tagged, and in binders.

cc: ADR Coordinator

Initials of Preparer                      : 0/23  
                     vpc

## **Exhibit E**

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CORY SPENCER, DIANA MILENA  
18 REED, and COASTAL PROTECTION  
RANGERS, INC.  
19

20 **UNITED STATES DISTRICT COURT**  
21 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**  
22

23 CORY SPENCER, an individual;  
DIANA MILENA REED, an  
24 individual; and COASTAL  
25 PROTECTION RANGERS, INC., a  
26 California non-profit public benefit  
27 corporation,  
28

Plaintiffs.

CASE NO. 2:16-cv-02129-SJO (RAOx)

**PLAINTIFFS' SUPPLEMENTAL  
DISCLOSURES**



1  
2 v.

3 LUNADA BAY BOYS; THE  
4 INDIVIDUAL MEMBERS OF THE  
5 LUNADA BAY BOYS, including but  
6 not limited to SANG LEE, BRANT  
7 BLAKEMAN, ALAN JOHNSTON  
8 AKA JALIAN JOHNSTON,  
9 MICHAEL RAE PAPAYANS,  
10 ANGELO FERRARA, FRANK  
11 FERRARA, CHARLIE FERRARA,  
12 and N.F.; CITY OF PALOS  
13 VERDES ESTATES; CHIEF OF  
14 POLICE JEFF KEPLEY, in his  
15 representative capacity; and DOES  
16 1-10,

17 Defendants.

18 Plaintiffs CORY SPENCER, DIANA MILENA REED, and COASTAL  
19 PROTECTION RANGERS, INC. (collectively, "Plaintiffs") make the following  
20 supplemental initial disclosures pursuant to F.R.C.P. 26(a)(1). As permitted  
21 under Rule 26(e)(1), Plaintiffs reserve the right to clarify, amend, modify or  
22 further supplement the information contained in these Supplemental  
23 Disclosures if and when they obtain additional supplemental information. In  
24 addition, Plaintiffs may rely on any persons or documents identified by any  
25 party as part of their disclosures or during discovery.

26 Plaintiffs' Initial Disclosures are made without waiver of, or prejudice  
27 to, any objections Plaintiffs may assert or have previously asserted.

28 Plaintiffs expressly reserve all objections, including, but not limited to:  
(a) attorney-client privilege; (b) work-product doctrine; and (c) any other  
applicable privilege or protection under federal or state law. Plaintiffs  
reserve the right to retract any inadvertent disclosures of information or

1 documents that are protected by the attorney-client privilege, the work  
2 product doctrine, or any other applicable protection.

3 Without waiving any objections, Plaintiffs make the following  
4 disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil  
5 Procedure:

6 **A. Witnesses**

7 Plaintiffs are in the process of identifying witnesses who are likely to  
8 have discoverable information. However, at this early stage, Plaintiffs  
9 identify the following person(s) they may use to support their claims:

- 10 1) Plaintiff class representative, Cory Spencer, who may be  
11 reached via counsel for Plaintiffs, on the subjects set forth in  
12 the Complaint, to which he was a percipient witness.
- 13 2) Plaintiff class representative, Diana Milena Reed, who may be  
14 reached via counsel for Plaintiffs, on the subjects of set forth  
15 in the Complaint, to which she was a percipient witness.
- 16 3) Defendant, Sang Lee, on the allegations set forth in the  
17 Complaint related to Defendant Lunada Bay Boys and the  
18 Individual Members of the Lunada Bay Boys.
- 19 4) Defendant, Brant Blakeman, on the allegations set forth in the  
20 Complaint related to Defendant Lunada Bay Boys and the  
21 Individual Members of the Lunada Bay Boys.
- 22 5) Defendant, Michael Rae Papayans, on the allegations set  
23 forth in the Complaint related to Defendant Lunada Bay Boys  
24 and the Individual Members of the Lunada Bay Boys.
- 25 6) Defendant, Angelo Ferrara, on the allegations set forth in the  
26 Complaint related to Defendant Lunada Bay Boys and the  
27 Individual Members of the Lunada Bay Boys.
- 28 7) Defendant, Charlie Ferrara, on the allegations set forth in the

- 1 Complaint related to Defendant Lunada Bay Boys and  
2 Individual Members of the Lunada Bay Boys.
- 3 8) Defendant, N.F., on the allegations set forth in the Complaint  
4 related to Defendant Lunada Bay Boys and Individual  
5 Members of the Lunada Bay Boys.
- 6 9) Defendant Frank Ferrara, on the allegations set forth in the  
7 Complaint related to Defendant Lunada Bay Boys and  
8 Individual Members of the Lunada Bay Boys.
- 9 10) Defendant, Chief of Police, Jeff Kepley, on the allegations set  
10 forth in the Complaint related to Defendant City of Palos  
11 Verdes Estates, Defendant Lunada Bay Boys and Individual  
12 Members of the Lunada Bay Boys.
- 13 11) Tim Browne, address unknown, on the allegations set forth in  
14 the Complaint related to Defendant City of Palos Verdes  
15 Estates, Defendant Lunada Bay Boys and Individual  
16 Members of the Lunada Bay Boys.
- 17 12) Daniel Dreiling, contact information unknown, on the  
18 allegations set forth in the Complaint related to Defendant  
19 City of Palos Verdes Estates, Defendant Lunada Bay Boys  
20 and Individual Members of the Lunada Bay Boys.
- 21 13) Defendant in the state court action, Los Angeles Superior  
22 Court Case No. BC629596, David Melo, on the allegations set  
23 forth in the Complaint related to Defendant Lunada Bay Boys  
24 and Individual Members of the Lunada Bay Boys.
- 25 14) Defendant in the state court action, Los Angeles Superior  
26 Court Case No. BC629596, Mark Griep, on the allegations set  
27 forth in the Complaint related to Defendant Lunada Bay Boys  
28 and Individual Members of the Lunada Bay Boys.



1 15) Peter Babros, 316 Via Pasqual, Redondo Beach, CA 90277,  
2 on the allegations set forth in the Complaint related to  
3 Defendant Lunada Bay Boys and Individual Members of the  
4 Lunada Bay Boys. Plaintiffs are informed and believe that Mr.  
5 Babros is a former resident of the City of Palos Verdes  
6 Estates having graduated PV High School in 1988 and  
7 maintains strong connections to the community. Plaintiffs  
8 believe that Mr. Babros is a Lunada Bay Local and is being  
9 listed as a potential percipient witness.

10 16) Cassidy Beukema, 2817 Palos Verdes Drive West, Palos  
11 Verdes Estates, CA, on the allegations set forth in the  
12 Complaint related to Defendant Lunada Bay Boys and  
13 Individual Members of the Lunada Bay Boys. Plaintiffs are  
14 informed and believe that Ms. Beukema is the step daughter  
15 to Defendant Angelo Ferraro and step sister to defendant N.F.  
16 Plaintiffs anticipate that this witness has information related to  
17 (a) the inner workings of the Lunada Bay Boys and the  
18 methods to keep non-locals from the beach, (b) illegal  
19 activities at Lunada Bay, (c) the January 20, 2014 incident, at  
20 a public surfing event at Lunada on Martin Luther King, Jr.  
21 Day, where a Lunada Bay Boy had his face painted in black  
22 makeup and wore a black Afro wig. Plaintiffs list this witness  
23 as a percipient witness.

24 17) Ron Bornstein, contact information unknown. Plaintiffs are  
25 informed and believe that Mr. Bornstein is a longtime resident  
26 of the City of Palos Verdes Estates. Plaintiffs are informed  
27 and believe that Mr. Bornstein or "Borno" is a resident of the  
28 City of Palos Verdes Estates having graduated PV High

1 School and maintains strong connections to the community.  
2 Plaintiffs believe that Mr. Bornstein is a Lunada Bay Local and  
3 is being listed as a potential percipient witness and possible  
4 defendant.

5 18) Joel Milam, 30571 Rue De La Pzerre, Rancho Palos Verdes,  
6 CA 90275, on the allegations set forth in the Complaint  
7 related to Defendant Lunada Bay Boys and Individual  
8 Members of the Lunada Bay Boys. Plaintiffs are informed and  
9 believe that Mr. Milam was a former resident of the City of  
10 Palos Verdes Estates having graduated PV High School and  
11 maintains strong connections to the community. Plaintiffs  
12 believe that Mr. Milam is a Lunada Bay Local and is being  
13 listed as a potential percipient witness.

14 19) Charles Thomas Mowatt, [REDACTED] Palos Verdes  
15 Peninsula, CA 90274-2725; [REDACTED] 8600, on the  
16 allegations set forth in the Complaint related to Defendant  
17 Lunada Bay Boys, Individual Members of the Lunada Bay  
18 Boys and communications with Defendant City of Palos  
19 Verdes Estates. Plaintiffs believe that Mr. Mowatt is a Lunada  
20 Bay Local and is being listed as a potential percipient witness  
21 and possible defendant.

22 20) James Reinhardt, contact information unknown. Plaintiffs are  
23 informed and believe that Mr. Reinhardt is a longtime resident  
24 of the City of Palos Verdes Estates having graduated from  
25 Palos Verdes High School in 1978. Plaintiffs believe that Mr.  
26 Reinhardt is a Lunada Bay Local and is being listed as a  
27 potential percipient witness. Plaintiffs believe that Mr.  
28 Reinhardt is a Lunada Bay Local and is being listed as a



1 potential percipient witness and possible defendant.

2 21) Fred Strater, contact information unknown, on the allegations  
3 set forth in the Complaint related to Defendant Lunada Bay  
4 Boys and the Individual Members of the Lunada Bay Boys.  
5 Mr. Strater is a former resident of the City of Palos Verdes  
6 Estates and maintains strong connections to the community.  
7 Plaintiffs believe that Mr. Strater is a Lunada Bay Local.  
8 Specifically, it is anticipated that Mr. Strater's testimony will  
9 include but not be limited to the following: (a) information  
10 regarding his former roommate, Charles Mowatt, as an  
11 enforcer and one of the worst Lunada Bay Locals, (b)  
12 information regarding the relationship between Michael S.  
13 Papayans, Charles Mowatt and the people "running the bay,"  
14 (c) tactics used to keep non-locals from coming to Lunada  
15 Bay, and (d) other illegal activities.

16 22) Mark Bonney, contact information unknown, on the  
17 allegations set forth in the Complaint related to Defendant  
18 Lunada Bay Boys and the Individual Members of the Lunada  
19 Bay Boys. Plaintiffs are informed and believe that Mr. Bonney  
20 is a former resident of the City of Palos Verdes Estates and  
21 graduate of PV High School and maintains strong  
22 connections to the community. Plaintiffs are informed and  
23 believe that Mr. Bonney has information regarding the  
24 activities of the Lunada Bay Boys by comments made in  
25 social media defending the actions of the Lunada Bay Locals.  
26 Mr. Bonney is being listed as a potential percipient witness  
27 and possible defendant.

28 23) David Hilton, a longtime resident of Palos Verdes Estates, on

1 the allegations set forth in the Complaint related to Defendant  
2 Lunada Bay Boys, the Individual Members of the Lunada Bay  
3 Boys and communications with Defendant City of Palos  
4 Verdes Estates. Plaintiffs are informed and believe that this  
5 witness is a long time surfer of Lunada Bay. It is anticipated  
6 that this percipient witness has information regarding: (a)  
7 January 22, 1995 incident where a surfer from Brazil  
8 (documented in Incident Report 95-0062) went to Lunada Bay  
9 to surf and was confronted by David Hilton and several other  
10 Bay Boys who made threats of violence against him causing  
11 him to reasonably believe that if he exercised his right surf at  
12 a public beach, Hilton and/or the Lunada Bay Boys would  
13 commit violence against him or his car and that Hilton and/or  
14 the Lunada Bay Boys with him had the apparent ability to  
15 carry out the threats, (b) the inner workings of the Lunada Bay  
16 Boys and the methods to keep non-locals from the beach, (c)  
17 illegal activities at Lunada Bay. Mr. Hilton is being listed as a  
18 potential percipient witness and possible defendant.

19 24) Eric Hilton, a longtime resident of Palos Verdes Estates, on  
20 the allegations set forth in the Complaint related to Defendant  
21 Lunada Bay Boys, the Individual Members of the Lunada Bay  
22 Boys and communications with Defendant City of Palos  
23 Verdes Estates. Plaintiffs are informed and believe that this  
24 witness is a long time surfer of Lunada Bay. It is anticipated  
25 that this percipient witness has information regarding: (a) the  
26 inner workings of the Lunada Bay Boys and the methods to  
27 keep non-locals from the beach, (b) illegal activities at Lunada  
28 Bay. Mr. Hilton is being listed as a potential percipient witness

1 and possible defendant.

2 25) Kelly Logan, [REDACTED] Venus, CA 90291-4919, on the  
3 allegations set forth in the Complaint related to Defendant  
4 Lunada Bay Boys and the Individual Members of the Lunada  
5 Bay Boys. Plaintiffs are informed and believe that Mr. Logan  
6 is a former resident of the City of Palos Verdes Estates but  
7 maintains strong connections to the community. Plaintiffs are  
8 informed and believe that Mr. Logan was involved in the  
9 assault by Peter McCollum against Geoff Hagins and several  
10 others reflected in Incident Report 95-0381. Plaintiffs believe  
11 that Mr. Logan is a Lunada Bay Local and is being listed as a  
12 potential percipient witness and possible defendant.

13 26) John Rall, contact information unknown, on the allegations set  
14 forth in the Complaint related to Defendant Lunada Bay Boys  
15 and the Individual Members of the Lunada Bay Boys.  
16 Plaintiffs are informed and believe that Mr. Rall graduated PV  
17 High School 1991 and maintains strong connections to the  
18 community. Plaintiffs believe that Mr. Rall is a Lunada Bay  
19 Local and is being listed as a potential percipient witness and  
20 possible defendant.

21 27) Michael S. Papayans, aka "Paps," a longtime resident of  
22 Palos Verdes Estates, on the allegations set forth in the  
23 Complaint related to Defendant Lunada Bay Boys, the  
24 Individual Members of the Lunada Bay Boys and  
25 communications with Defendant City of Palos Verdes Estates.  
26 Plaintiffs are informed and believe that he is the uncle of  
27 Defendant Michael Rae Papayans. This witness surfs Lunada  
28 Bay on a regular basis. It is anticipated that this witness has



1 information regarding: (a) a meeting that he had with Chris  
2 Taloa in 2014, (b) the inner workings of the Lunada Bay Boys  
3 and the methods to keep non-locals from the beach, (c) illegal  
4 activities at Lunada Bay. Plaintiffs believe that Mr. Papayans  
5 is a Lunada Bay Local and is being listed as a potential  
6 percipient witness and possible defendant.

7 28) Jim Russi, contact information unknown, on the allegations  
8 set forth in the Complaint related to Defendant Lunada Bay  
9 Boys and the Individual Members of the Lunada Bay Boys.  
10 Plaintiffs are informed and believe that Mr. Russi is a former  
11 resident of the City of Palos Verdes Estates and maintains  
12 strong connections to the community – possibly still owning a  
13 home on the cliff above the bay. Plaintiffs are informed and  
14 believe and on that basis allege that this witness has  
15 information regarding the illegal activities of the Lunada Bay  
16 Boys including the Ferraras. While this witness claims to have  
17 moved from the area years ago, he has publicly defended the  
18 actions of the Lunada Bay Boys. Plaintiffs believe that Mr.  
19 Russi is a Lunada Bay Local and is being listed as a potential  
20 percipient witness.

21 29) Carlos Anorga, [REDACTED] Torrance, CA  
22 90503; [REDACTED] 7762, on the allegations set forth in the  
23 Complaint related to Defendant Lunada Bay Boys and the  
24 Individual Members of the Lunada Bay Boys. Plaintiffs  
25 consider this person a longtime Lunda Bay local surfer and  
26 potentially and is listed as a possible percipient witness.

27 30) Zen Del Rio, contact information unknown, on the allegations  
28 set forth in the Complaint related to Defendant Lunada Bay

Boys and the Individual Members of the Lunada Bay Boys.

Plaintiffs consider this person a longtime Lunda Bay local and potentially and is listed as a possible percipient witness.

31) Mark Koehler, address unknown, [REDACTED]-1668, on the allegations set forth in the Complaint related to Defendant Lunada Bay Boys and the Individual Members of the Lunada Bay Boys. Plaintiffs believe that Mr. Koehler is a Lunada Bay Local and is being listed as a potential percipient witness

32) Chad Beatty, [REDACTED], Redondo Beach, CA 90277, on the allegations set forth in the Complaint related to Defendant Lunada Bay Boys and the Individual Members of the Lunada Bay Boys. This person has been surfing Lunada Bay for years and is listed as a possible percipient witness. At this time, Plaintiffs do not have any specific information regarding this witness.

33) Joe Bark, address unknown; [REDACTED] 2463, on the allegations set forth in the Complaint related to Defendant Lunada Bay Boys and the Individual Members of the Lunada Bay Boys. Plaintiffs believe that Mr. Bark is a Lunada Bay Local and is being listed as a potential percipient witness. Specifically, Plaintiffs believe and anticipate that Mr. Bark will be able to testify to the following: (a) having surfed Lunada Bay since at least 1980, the surfing ability of each named Defendant, (b) as a world known waterman and surfboard and paddleboard maker, the specific dangers related to surfing Lunada Bay, (c) the types of equipment needed to safely surf Lunada Bay during different types of surfing conditions, (d) illegal activities of the Lunada Bay Boys.



1 34) Jason Buck, contact information unknown, on the allegations  
2 set forth in the Complaint related to Defendant Lunada Bay  
3 Boys and the Individual Members of the Lunada Bay Boys.  
4 This person has been surfing Lunada Bay for years and is  
5 listed as a possible percipient witness. At this time, Plaintiffs  
6 do not have any specific information regarding this witness.  
7 Plaintiffs believe that Mr. Buck is a Lunada Bay Local and is  
8 being listed as a potential percipient witness.

9 35) Tony Pazanowski, contact information unknown. Plaintiffs are  
10 informed and believe that Mr. Pazanowski was a former  
11 resident of the City of Palos Verdes Estates having graduated  
12 PV High School and maintains strong connections to the  
13 community. Several people have reported that this witness  
14 surfs the Bay and has posted comments in social media  
15 supporting Lunada Bay localism. Plaintiffs are listing Mr.  
16 Pazanowski as a potential percipient witness.

17 36) Derek Daigneault, contact information unknown, on the  
18 allegations set forth in the Complaint related to Defendant  
19 Lunada Bay Boys and the Individual Members of the Lunada  
20 Bay Boys. Plaintiffs are listing Mr. Daigneault as a potential  
21 percipient witness.

22 37) Daniel Dreiling Jr., contact information unknown, on the  
23 allegations set forth in the Complaint related to Defendant  
24 Lunada Bay Boys and the Individual Members of the Lunada  
25 Bay Boys. Plaintiffs are informed and believe that this witness  
26 is the son of the former Chief of Police for Palos Verdes  
27 Estates and because of his father's job was permitted to surf  
28 Lunada Bay. Plaintiffs are informed and believe that Mr.

1 Dreiling built at least one knee board for Defendant Brant  
2 Blakeman. Mr. Dreiling is being listed as a potential percipient  
3 witness.

4 38) Danny Ecker, contact information unknown, on the allegations  
5 set forth in the Complaint related to Defendant Lunada Bay  
6 Boys and the Individual Members of the Lunada Bay Boys.  
7 Plaintiffs are informed and believe that this person grew up in  
8 Palos Verdes Estates and surfed Lunada Bay for years and is  
9 listed as a possible percipient witness. At this time, Plaintiffs  
10 do not have any specific information regarding this witness.  
11 Plaintiffs believe that Mr. Ecker is being listed as a potential  
12 percipient witness.

13 39) Pat Ecker, contact information unknown, on the allegations  
14 set forth in the Complaint related to Defendant Lunada Bay  
15 Boys and the Individual Members of the Lunada Bay Boys.  
16 This person has been surfing Lunada Bay for years and is  
17 listed as a possible percipient witness. At this time, Plaintiffs  
18 do not have any specific information regarding this witness.  
19 Plaintiffs believe that Mr. Ecker is being listed as a potential  
20 percipient witness.

21 40) Greg Cahill, contact information unknown, on the allegations  
22 set forth in the Complaint related to Defendant Lunada Bay  
23 Boys and the Individual Members of the Lunada Bay Boys.  
24 Plaintiffs were contacted by a witness that stated that Mr.  
25 Cahill was one of a group of Bay Boys that approached him  
26 on top of the bluff while he was attempting to surf Lunada Bay  
27 and threatened him with violence and damage to his car when  
28 if he went down the trail. Mr. Cahill is being listed as a

1 percipient witness and possible defendant.

2 41) Alex Hooks, contact information unknown, on the allegations  
3 set forth in the Complaint related to Defendant Lunada Bay  
4 Boys and the Individual Members of the Lunada Bay Boys. At  
5 this time, Plaintiffs do not have any specific information  
6 regarding this witness. Plaintiffs believe that Mr. Hooks may  
7 surf the bay and is being listed as a potential percipient  
8 witness.

9 42) Alex Gray, contact information unknown, on the allegations  
10 set forth in the Complaint related to Defendant Lunada Bay  
11 Boys and the Individual Members of the Lunada Bay Boys.

12 43) Leonora Beukema, [REDACTED], Palos Verdes  
13 Estates, CA 90274, on the allegations set forth in the  
14 Complaint related to Defendant Lunada Bay Boys and the  
15 Individual Members of the Lunada Bay Boys. Plaintiffs are  
16 informed and believe that Ms. Beukema is married to  
17 Defendant Angelo Ferrara and anticipate that she will testify  
18 related to the following: (a) the inner workings of the Lunada  
19 Bay Boys and the methods to keep non-locals from the  
20 beach; (b) her son, Anthony Beukema's, activities in the  
21 Lunada Bay Boys, (c) illegal activities at Lunada Bay, (d)  
22 statements she made to the Daily Breeze regarding the  
23 January 20, 2014 incident, at a public surfing event at Lunada  
24 on Martin Luther King, Jr. Day, where a Lunada Bay Boy that  
25 had his face painted in black makeup and wore a black Afro  
26 wig left her house to go to the event. Plaintiffs' list this  
27 witness as a percipient witness.

28 44) Jordan Wright, can be contacted through Plaintiffs' counsel,



1 on the subjects set forth in the Complaint, to which he was a  
2 percipient witness. Specifically, Mr. Wright is expected to  
3 testify regarding several incidents that he has had with  
4 Individual members of the Lunada Bay Boys over the 2 – 3  
5 years that he has attempted surf the break, including but not  
6 limited to the following: (a) being assaulted on January 29,  
7 2016 by David Melo, (b) February 13, 2016 incident with  
8 Plaintiff Diana Reed, (c) other incidents when he attempted to  
9 surf Lunada Bay.

10 45) Gavin Heaney, can be contacted through Plaintiffs' counsel,  
11 on the allegations set forth in the Complaint related to  
12 Defendant Lunada Bay Boys and the Individual Members of  
13 the Lunada Bay Boys. It is anticipated that Mr. Heaney will  
14 testify that he was denied entrance to Lunada Bay on top of  
15 the bluff while attempting to surf there by six or more Bay  
16 Boys who threatened him with violence and damage to his  
17 property if he went down the trail. Fearing for his safety, he  
18 quickly left the area. It is further anticipated this witness will  
19 testify that Greg Cahill was one of the people who threatened  
20 him.

21 46) Tyler Canali, can be contacted through Plaintiffs' counsel, on  
22 the allegations set forth in the Complaint related to Defendant  
23 Lunada Bay Boys and the Individual Members of the Lunada  
24 Bay Boys. Canali will testify that he is not from Palos Verdes  
25 Estates. It is anticipated that he will testify that was hassled  
26 the whole way out by the Lunada Bay Boys. They kept telling  
27 him "Don't bother going out, you're not going to get a wave."  
28 He will state that the Individual Bay Boys cut him off on every

1 wave. He will further testify that Individual Bay Boys  
2 surrounded him in the water in an effort to intimidate him.  
3 They were as close as they could be, no one saying a word,  
4 just staring him down. Eventually Canali made his way to  
5 shore, where more hecklers awaited. They called him a "kook"  
6 told him to leave.

7 47) Jimmy Conn, can be contacted through Plaintiffs' counsel, on  
8 the allegations set forth in the Complaint related to Defendant  
9 Lunada Bay Boys and the Individual Members of the Lunada  
10 Bay Boys. Specifically, it is anticipated that this witness will  
11 testify that he started surfing Lunada Bay around 1976 on  
12 really big swells. Because most of the locals are not good  
13 surfers, they would not be in the water when he surfed but  
14 would still threaten, harass and throw rocks at him. On one  
15 occasion, he was hit by a rock and needed 17 stitches in his  
16 lip. He still has the scar.

17 48) Daniel Dorn, can be contacted through Plaintiffs' counsel, on  
18 the allegations set forth in the Complaint related to Defendant  
19 Lunada Bay Boys and the Individual Members of the Lunada  
20 Bay Boys. It is anticipated that Mr. Dorn will testify that he is a  
21 semiprofessional body boarder from Redondo Beach and that  
22 he had never surfed Lunada Bay for fear of violence. He  
23 attended one of Taloa's surfing events at Lunada Bay  
24 because he felt it would be safe. It is anticipated that he will  
25 testify even though the police were present they would not  
26 tell him if it was safe. Upon greeting the pack with a hello, he  
27 was assailed by profanities and threats. He will testify that a  
28 Bay Boy in a kayak told him to leave and threatened him. It is



1 anticipated that Dorn will testify that Individual Bay Boys  
2 dropped in on him and tried to run him over with their  
3 surfboards until he left.

4 49) Derek Ellis, can be contacted through counsel, on the  
5 allegations set forth in the Complaint related to Defendant  
6 Lunada Bay Boys and the Individual Members of the Lunada  
7 Bay Boys.

8 50) Geoff Hagins, can be contacted through Plaintiffs' counsel, on  
9 the allegations set forth in the Complaint related to Defendant  
10 Lunada Bay Boys and the Individual Members of the Lunada  
11 Bay Boys. Geoff Hagins, John Hagin, Mike Bernard, Mike  
12 Bernard, Jr, Charlie Rigano and Doug Disanti were accosted  
13 by Peter McCollum and several other Bay Boys as reflected in  
14 Incident Report 95-0381.

15 51) John Hagins, contact information unknown, on the allegations  
16 set forth in the Complaint related to Defendant Lunada Bay  
17 Boys and the Individual Members of the Lunada Bay Boys.  
18 Geoff Hagins, John Hagin, Mike Bernard, Mike Bernard, Jr,  
19 Charlie Rigano and Doug Disanti were accosted by Peter  
20 McCollum and several other Bay Boys as reflected in Incident  
21 Report 95-0381.

22 52) Mike Bernard, contact information unknown, on the  
23 allegations set forth in the Complaint related to Defendant  
24 Lunada Bay Boys and the Individual Members of the Lunada  
25 Bay Boys. Geoff Hagins, John Hagin, Mike Bernard, Mike  
26 Bernard, Jr, Charlie Rigano and Doug Disanti were accosted  
27 by Peter McCollum and several other Bay Boys as reflected in  
28 Incident Report 95-0381.

1 53) Mike Bernard, Jr. contact information unknown, on the  
2 allegations set forth in the Complaint related to Defendant  
3 Lunada Bay Boys and the Individual Members of the Lunada  
4 Bay Boys. Geoff Hagins, John Hagin, Mike Bernard, Mike  
5 Bernard, Jr, Charlie Rigano and Doug Disanti were accosted  
6 by Peter McCollum and several other Bay Boys as reflected in  
7 Incident Report 95-0381.

8 54) Charlie Rigano, contact information unknown, on the  
9 allegations set forth in the Complaint related to Defendant  
10 Lunada Bay Boys and the Individual Members of the Lunada  
11 Bay Boys. Geoff Hagins, John Hagin, Mike Bernard, Mike  
12 Bernard, Jr, Charlie Rigano and Doug Disanti were accosted  
13 by Peter McCollum and several other Bay Boys as reflected in  
14 Incident Report 95-0381.

15 55) Doug Disanti, contact information unknown, on the allegations  
16 set forth in the Complaint related to Defendant Lunada Bay  
17 Boys and the Individual Members of the Lunada Bay Boys.  
18 Geoff Hagins, John Hagin, Mike Bernard, Mike Bernard, Jr,  
19 Charlie Rigano and Doug Disanti were accosted by Peter  
20 McCollum and several other Bay Boys as reflected in Incident  
21 Report 95-0381.

22 56) Kurt Stanphenhorst, contact information unknown, on the  
23 allegations set forth in the Complaint related to Defendant  
24 Lunada Bay Boys and the Individual Members of the Lunada  
25 Bay Boys. It is anticipated that this witness will testify that Got  
26 shot at with a pellet gun by an Individual Bay Boy.

27 57) Randy Clark, contact information unknown, on the allegations  
28 set forth in the Complaint related to Defendant Lunada Bay

- 1 Boys and the Individual Members of the Lunada Bay Boys.
- 2 58) John Innis, can be contracted through Plaintiffs' counsel, on
- 3 the allegations set forth in the Complaint related to Defendant
- 4 Lunada Bay Boys and the Individual Members of the Lunada
- 5 Bay Boys. This witness will testify that he was while trying to
- 6 take photographs. He made a police report but nothing came
- 7 of it.
- 8 59) Trish Laurie, contact information unknown, on the allegations
- 9 set forth in the Complaint related to Defendant Lunada Bay
- 10 Boys and the Individual Members of the Lunada Bay Boys. It
- 11 is anticipated that Ms. Laurie will testify that she was sexually
- 12 harassed/assaulted at Lunada Bay. It is anticipated that she
- 13 will say that certain individuals dropped "dropped their towels
- 14 and jerked off to her." Ms. Laurie is being listed as a possible
- 15 percipient witness.
- 16 60) Ken Claypool, can be contacted through Plaintiffs' counsel, on
- 17 the allegations set forth in the Complaint related to Defendant
- 18 Lunada Bay Boys and the Individual Members of the Lunada
- 19 Bay Boys. This witness will testify about several incidents of
- 20 harassment at Lunada Bay involving Individuals such as
- 21 Brant Blakeman and possibly one or more of the Ferraras.
- 22 61) Tom Wilson, contact information unknown, on the allegations
- 23 set forth in the Complaint related to Defendant Lunada Bay
- 24 Boys and the Individual Members of the Lunada Bay Boys.
- 25 62) Martin Tueling, contact information unknown, on the
- 26 allegations set forth in the Complaint related to Defendant
- 27 Lunada Bay Boys and the Individual Members of the Lunada
- 28 Bay Boys.



1 63) Bernie Mann, contact information unknown, on the allegations  
2 set forth in the Complaint related to Defendant Lunada Bay  
3 Boys and the Individual Members of the Lunada Bay Boys.

4 64) Dr. Stephen Young, can be contacted through Plaintiffs'  
5 counsel, on the allegations set forth in the Complaint related  
6 to Defendant Lunada Bay Boys and the Individual Members  
7 of the Lunada Bay Boys. It is anticipated that Dr. Stephen  
8 Young will testify that while attending Medical school he tried  
9 many times to enjoy the break at Lunada Bay and on every  
10 occasion I was bullied to leave the area. He will testify that his  
11 vehicle was damaged many times which included slashed  
12 tires, scratches on the painted surfaces and broken windows.  
13 He will testify that there was a few occasions that he feared  
14 for my life. He will state that he filed a police report but  
15 nothing was done.

16 65) Hagan Kelly, contact information unknown, on the allegations  
17 set forth in the Complaint related to Defendant Lunada Bay  
18 Boys and the Individual Members of the Lunada Bay Boys.

19 66) Sef Krell, may be contacted through Plaintiffs' counsel, on the  
20 allegations set forth in the Complaint related to Defendant  
21 Lunada Bay Boys and the Individual Members of the Lunada  
22 Bay Boys. Specifically, related to the incident that occurred on  
23 or around November 15, 2014.

24 67) Alan Haven, can be contacted through Plaintiffs' counsel, on  
25 the allegations set forth in the Complaint related to Defendant  
26 Lunada Bay Boys and the Individual Members of the Lunada  
27 Bay Boys. Mr. Haven is a resident of Palos Verdes Estates  
28 and will testify regarding the video of an assault that he took

1 on October 10, 2015.

2 68) Daniel R. Jongeward, can be contacted through Plaintiffs'  
3 counsel, on the allegations set forth in the Complaint related  
4 to Defendant Lunada Bay Boys and the Individual Members  
5 of the Lunada Bay Boys. Specifically, it is anticipated that Mr.  
6 Jongeward will testify that: (a) he is not a resident of Palos  
7 Verdes Estates, (b) he was a big surfer but rides longboards  
8 and guns, (c) he has attempted to surf Lunada Bay on several  
9 occasions. Because of the reputation, he went alone and  
10 early in the morning. He has had dirt clogs and rocks thrown  
11 at him. He has been physically threatened. People threatened  
12 to vandalize his car. Because he believes that the Lunada  
13 Bay Boys have the ability to physically harm him and his  
14 property he made the decision not to return.

15 69) Patrick Landon, contact information unknown, on the  
16 allegations set forth in the Complaint related to Defendant  
17 Lunada Bay Boys and the Individual Members of the Lunada  
18 Bay Boys.

19 70) Frank Netto, can be contacted through Plaintiffs' counsel, on  
20 the allegations set forth in the Complaint related to Defendant  
21 Lunada Bay Boys and the Individual Members of the Lunada  
22 Bay Boys.

23 71) Randy Miestrell, contact information unknown, on the  
24 allegations set forth in the Complaint related to Defendant  
25 Lunada Bay Boys and the Individual Members of the Lunada  
26 Bay Boys. This witness has been quoted in numerus articles  
27 over the years and is listed as a possible percipient witness.

28 72) Sharlean Perez, can be contacted through Plaintiffs' counsel,



1 on the allegations set forth in the Complaint related to  
2 Defendant Lunada Bay Boys and the Individual Members of  
3 the Lunada Bay Boys. It is anticipated that this witness will  
4 testify that she and her boyfriend tried to hike down the trail to  
5 Lunada Bay and people started throwing glass bottles "near"  
6 and "around" them. She and her boyfriend at the time were  
7 not from PVE.

8 73) Charles Michael Pinkerton, can be contacted through  
9 Plaintiffs' counsel, on the allegations set forth in the  
10 Complaint related to Defendant Lunada Bay Boys and the  
11 Individual Members of the Lunada Bay Boys. It is anticipated  
12 that Mr. Pinkerton will testify that he is an aerospace engineer  
13 with a Masters Degree that he has made several attempts to  
14 surf Lunada Bay. He will state that he has been harassed  
15 (verbal harassments, threats of violence, to throw things in the  
16 water). He has had all four tires flattened, his windows waxed;  
17 his backpack thrown in the water while he was out surfing.

18 74) Mike Purpus, contact information unknown, on the allegations  
19 set forth in the Complaint related to Defendant Lunada Bay  
20 Boys and the Individual Members of The Lunada Bay Boys.  
21 This witness is a former professional surfer who has written  
22 articles about localism at Lunada Bay and is listed as a  
23 possible percipient witness.

24 75) Mike Stevens, Los Angeles County District Attorney's Office,  
25 [REDACTED] Los Angeles, CA 90012, on the  
26 allegations set forth in the Complaint related to Defendant  
27 Lunada Bay Boys and the Individual Members of the Lunada  
28 Bay Boys. Plaintiffs have been informed that Mr. Stevens is

1 an investigator with the Los Angeles District Attorney's Office  
2 and that he was hassled by the Bay Boys when attempting to  
3 surf Lunada Bay. Neither Plaintiffs nor their attorneys have  
4 spoken directly with Mr. Stevens. He is listed as a possible  
5 percipient witness.

6 76) Christopher Taloa, can be contacted through Plaintiffs'  
7 counsel, on the allegations set forth in the Complaint related  
8 to Defendant Lunada Bay Boys and the Individual Members  
9 of the Lunada Bay Boys. Specifically, it is anticipated that Mr.  
10 Taloa will testify regarding several incidents.

11 77) John MacHarg, can be contacted through Plaintiffs' counsel.  
12 Plaintiffs anticipate that Mr. MacHard will testify that while  
13 visiting Lunada Bay on February 1, 2016 he was standing just  
14 under the patio on the rocks and Defendant Sang Lee (local  
15 surfer/enforcer) who was standing on top of the patio poured  
16 out a portion of the beer he was holding on to his head. This  
17 happened right in front two officers that were standing 6 feet  
18 to his right.

19 78) Tim Tindall, can be contacted through Plaintiffs' counsel, on  
20 the allegations set forth in the Complaint related to Defendant  
21 Lunada Bay Boys and the Individual Members of the Lunada  
22 Bay Boys. It is anticipated that Mr. Tindell will testify about  
23 being harassed while attempting to body board Wally's.

24 79) Rory Carroll, contact information unknown, on the allegations  
25 set forth in the Complaint related to Defendant Lunada Bay  
26 Boys and the Individual Members of the Lunada Bay Boys.  
27 Specifically, Mr. Carroll is expected to testify regarding the  
28 contents of the

1 video:[https://www.theguardian.com/travel/video/2015/may/18/](https://www.theguardian.com/travel/video/2015/may/18/california-surf-wars-lunada-bay-localism-video)  
2 [california-surf-wars-lunada-bay-localism-video](https://www.theguardian.com/travel/video/2015/may/18/california-surf-wars-lunada-bay-localism-video)

3 80) Noah Smith, contact information unknown, on the allegations  
4 set forth in the Complaint related to Defendant Lunada Bay  
5 Boys and the Individual Members of the Lunada Bay Boys.  
6 Specifically, Mr. Carroll is expected to testify regarding the  
7 contents of the video:

8 [https://www.theguardian.com/travel/video/2015/may/18/califor](https://www.theguardian.com/travel/video/2015/may/18/california-surf-wars-lunada-bay-localism-video)  
9 [nia-surf-wars-lunada-bay-localism-video](https://www.theguardian.com/travel/video/2015/may/18/california-surf-wars-lunada-bay-localism-video)

10 81) Josh Bernstein, contact information unknown, on the subject of  
11 the declaration submitted to the California Coastal  
12 Commission regarding trail access.

13 82) Karl R. Bingemann, contact information unknown, on the  
14 subject of the declaration submitted to the California Coastal  
15 Commission regarding trail access.

16 83) William C. Brand, contact information unknown, on the subject  
17 of the declaration submitted to the California Coastal  
18 Commission regarding trail access.

19 84) Kurt Buettgenbach, contact information unknown, on the  
20 subject of the declaration submitted to the California Coastal  
21 Commission regarding trail access.

22 85) Sean Criss, contact information unknown, on the subject of  
23 the declaration submitted to the California Coastal

24 Commission regarding trail access.

25 86) Douglas Leach, contact information unknown, on the subject  
26 of the declaration submitted to the California Coastal  
27 Commission regarding trail access.

28 87) Ian McDonald, contact information unknown, on the subject of



- 1 the declaration submitted to the California Coastal  
2 Commission regarding trail access.
- 3 88) John R. McGrath, Jr., contact information unknown, on the  
4 subject of the declaration submitted to the California Coastal  
5 Commission regarding trail access.
- 6 89) Colin McNany, contact information unknown, on the subject of  
7 the declaration submitted to the California Coastal  
8 Commission regarding trail access.
- 9 90) Bruce V. Rorty, contact information unknown, on the subject  
10 of the declaration submitted to the California Coastal  
11 Commission regarding trail access.
- 12 91) Officers R. Castro / C. Simon, presumably can be contacted  
13 through counsel for the City, on the subject regarding Officer  
14 Report for Incident 12-11606.
- 15 92) Officers Helinga / Wulf, presumably can be contacted through  
16 counsel for the City, on the subject regarding Officer Report  
17 for Incident 11-10919.
- 18 93) Officer Shinowsky, presumably can be contacted through  
19 counsel for the City, on the subject regarding Officer Report  
20 for Incident 95-0297.
- 21 94) Officer Belcher, presumably can be contacted through  
22 counsel for the City, on the subject regarding Officer Report  
23 for Incidents 95-0281, 95-0381.
- 24 95) Officers Velez / John C. Eberhard / Denise L. Allen,  
25 presumably can be contacted counsel for the City, on the  
26 subject regarding Officer Report(s) for Incidents 95-0418 and  
27 97-0042.
- 28 96) Officers Denice L. Allen / John C. Eberhard / Steven N.

1 Barber, presumably can be contacted through counsel for the  
2 City, on the subject regarding Officer Report for Incident 97-  
3 0047.

4 97) Officers Richard J. Delmont / Patrick L. Hile, can presumably  
5 be contacted through counsel for the City, on the subject  
6 regarding Officer Report for Incident 98-0301.

7 98) Officers Cecilia T. Nguyen / Mark A. Velez / Valerie S. Hite,  
8 can presumably be contacted through counsel for the City, on  
9 the subject regarding Officer Report for Incident 99-0042.

10 99) Officers E. Gaunt / C. Reed, presumably can be contacted  
11 through counsel for the City, on the subject regarding Officer  
12 Report for Incident 09-00575.

13 100) Officers E. Gaunt / C. Reed, presumably can be contacted  
14 through counsel for the City, on the subject regarding Officer  
15 Report for Incident 09-00562.

16 101) Officers B. Hernandez / R. Venegas, presumably can be  
17 contacted through counsel for the City, on the subject  
18 regarding Officer Report for Incident 09-00693.

19 102) Officer B. Hernandez, presumably can be contacted through  
20 counsel for the City, on the subject regarding Officer  
21 Report for Incident 09-10183.

22 103) Officers L. Tejada / R. Delmont, presumably can be contacted  
23 through counsel for the City, on the subject regarding Officer  
24 Report for Incident 09-08872.

25 104) Officers C. Eberhard / S. Tomlins, presumably can be  
26 contacted through counsel for the City, on the subject  
27 regarding Officer Report for Incident 10-00265.

28 105) Officers B. Hernandez / C. Reed, presumably can be



1 contacted through counsel for the City, on the subject  
2 regarding Officer Report for Incident 10-02408.

3 **B. Documents**

4 In accordance with F.R.C.P. 26(a)(1)(A)(ii), Plaintiffs identify the  
5 following categories of documents in their possession, custody or control:

6 Police Reports:

- 7 1. Palos Verdes Estates Police Department, Officer Report for  
8 Incident 16-01360, dated 1/22/95.
- 9 2. Palos Verdes Estates Police Department, Officer Report for  
10 Incident 95-0219/0381, dated 3/13/95.
- 11 3. Palos Verdes Estates Police Department, Officer Report for  
12 Incident 95-0297, dated 4/5/95.
- 13 4. Palos Verdes Estates Police Department, Officer Report for  
14 Incident 95-0381, dated 4/26/95.
- 15 5. Palos Verdes Estates Police Department, Officer Report for  
16 Incident 95-0381, dated 3/14/95.
- 17 6. Palos Verdes Estates Police Department, Officer Report for  
18 Incident 95-0418, dated 5/7/95.
- 19 7. Palos Verdes Estates Police Department, Officer Report for  
20 Incident 96-1037, dated 12/18/96.
- 21 8. Palos Verdes Estates Police Department, Officer Report for  
22 Incident 97-0002, dated 1/1/97.
- 23 9. Palos Verdes Estates Police Department, Officer Report for  
24 Incident 97-0042, dated 1/18/97.
- 25 10. Palos Verdes Estates Police Department, Officer Report for  
26 Incident 97-0047, dated 1/19/97.
- 27 11. Palos Verdes Estates Police Department, Officer Report for  
28 Incident 98-0301, dated 5/02/98.

- 1 12. Palos Verdes Estates Police Department, Officer Report for
- 2 Incident 99-0042, dated 1/16/99.
- 3 13. Palos Verdes Estates Police Department, Officer Report for
- 4 Incident 99-0077, dated 1/24/99.
- 5 14. Palos Verdes Estates Police Department, Officer Report for
- 6 Incident 09-00562, dated 1/19/09.
- 7 15. Palos Verdes Estates Police Department, Officer Report for
- 8 Incident 09-00693, dated 1/24/09.
- 9 16. Palos Verdes Estates Police Department, Officer Report for
- 10 Incident 09-08872, dated 10/15/09.
- 11 17. Palos Verdes Estates Police Department, Officer Report for
- 12 Incident 09-10183, dated 11/28/09. – Sang Lee
- 13 18. Palos Verdes Estates Police Department, Officer Report for
- 14 Incident 10-00265, dated 1/10/10.
- 15 19. Palos Verdes Estates Police Department, Officer Report for
- 16 Incident 10-02408, dated 3/23/10.
- 17 20. Palos Verdes Estates Police Department, Officer Report for
- 18 Incident 11-10919, dated 12/25/11.
- 19 21. Palos Verdes Estates Police Department, Officer Report for
- 20 Incident 12-11606, dated 11/03/12.
- 21 22. Palos Verdes Estates Police Department, Officer Report for
- 22 Incident 16-0136, dated 1/29/16.
- 23 Photos:
- 24 23. All photos attached as exhibits to the Complaint.
- 25 24. All photos attached as exhibits to the State Action BC629596.
- 26 25. Photographs of Lunada Bay taken in August 2015 and provided
- 27 to Plaintiffs by City of Palos Verdes Estates in response to Public
- 28 Records Act Request, Bates Nos. 1128-1151, 1267-1300.

1        Correspondence:

- 2        26. Letter undated from Jim Russi to Ed Jaakola.
- 3        27. Letter dated January 21, 2016, from Jordan Sanchez of the
- 4            California Coastal Commission to Jeff Kepley of the Palos
- 5            Verdes Police Department.
- 6        28. Letter dated June 6, 2016, from Mr. Sanchez of the California
- 7            Coastal Commission to City Manager Anton Dahlerbruch.
- 8        29. Letter dated June 7, 2016, from City Manager Dahlerbruch to Mr.
- 9            Sanchez.
- 10       30. July 12, 2016 Sheri Repp-Loadsmann, Deputy City
- 11           Manager/Planning and Building Director issued a Memorandum
- 12           to the City's Mayor and City Council.
- 13       31. Email chain dated April 4, 2016 between John MacHarg and
- 14           Mark Velez.
- 15       32. Memo dated 12/31/15 from Chief Jeff Kepley' re PVE Surfing
- 16           Localism in The Media This Week.
- 17       33. Memorandum from Anton Dahlerbruch to Honorable Mayor and
- 18           City Council dated January 22, 2016, Subject City Managers
- 19           Report for January 18- January 22, 2016.
- 20       34. Memorandum from Anton Dahlerbruch to Honorable Mayor and
- 21           City Council dated January 29, 2016, Subject City Managers
- 22           Report for January 25- January 29, 2016.
- 23       35. Memorandum from Anton Dahlerbruch to Honorable Mayor and
- 24           City Council dated March 25, 2016, Subject City Managers
- 25           Report for March 21 - March 25, 2016.
- 26       36. Letter dated January 12, 2016 from Resident to Jeff Kepley.
- 27       37. Letter to Surfer Magazine from Frank Ferarra entitled "Today's
- 28           Lesson Don't Be A Kook.



1 Videos:

2 38. Defendant Sang Lee and other Bay Boys caught on video.

3 <https://www.theguardian.com/travel/video/2015/may/18/california>  
4 -surf-wars-lunada-bay-localism-video

5 39. Peter McCollum assaults Jeff Hagins, John Hagins, Vietnam  
6 combat vet Mike Bernard and his son for surfing the public beach  
7 telling them, among other things, "you won't come back here  
8 again boy".

9 <https://www.youtube.com/watch?v=J1Ms0ktOaZs>

10 40. Defendant Michael Papayans - blocking access to the public  
11 beach: <https://vimeo.com/88394493>

12 41. MLK harassment - <https://vimeo.com/85025465>

13 42. Video of David Melo harassing Diana Milena Reed and Jordan  
14 Wright and attempting to block their access to public beach  
15 taken on 1/29/16.

16 43. Video of Hank Harper attempting to intimidate Diana Milena  
17 Reed and her attorney while being interviewed by the media.

18 44. The Swell Life, (2001), interview of former Chief of Police Tim  
19 Browne.

20 45. Video taken by Alan Haven on 10-10-16 of six males on the cliffs  
21 edge that overlooks Lunada Bay.

22 **C. Damages**

23 A Computation of Damages Claimed by Plaintiff Under Fed. R. Civ. P.

24 26(a)(1)(A)(iii)

25 This case is primarily about broad, class-wide injunctive and  
26 declaratory relief necessary to redress group-wide injury to visiting  
27 beachgoers whom Defendants are denying access to Lunada Bay, whereby  
28 a single injunction or declaratory judgment will provide relief to each member

1 of the class. In addition to equitable relief, on behalf of themselves and the  
2 putative class, Plaintiffs Cory Spencer and Diana Milena Read seek uniform  
3 and formulaic damages that are incidental to the requested equitable relief.  
4 This includes damages under Civil Code section 52 and 52.1(b). Plaintiffs do  
5 not have sufficient information at this time to provide an accurate estimate of  
6 the incidental damages, however, such amount is to be determined at trial.

7 Plaintiffs also seek attorneys' fees, costs, and interest pursuant to Cal.  
8 Civ. Code §§ 52.1 and 1021.5, 42 U.S.C. § 1983, and any other statute or  
9 rule of law authorizing such an award.

10 At this early stage of discovery, however, Plaintiffs are unable to  
11 provide a full computation of damages they will be seeking.

12 **D. Insurance**

13 Not applicable.

14 **E. Certification**

15 To the best of my knowledge, information, and belief, formed after an  
16 inquiry that is reasonable under the circumstances, this disclosure is  
17 complete and correct as of the time it is made.

18  
19 DATED: October 2, 2016

HANSON BRIDGETT LLP

20  
21 By: /s/ Kurt A. Franklin

22 KURT A. FRANKLIN  
23 SAMANTHA D. WOLFF  
24 CAROLINE ELIZABETH LEE  
25 TYSON M. SHOWER  
26 LONDON D. BAILEY  
27 Attorneys for Plaintiffs  
28 CORY SPENCER, DIANA MILENA  
REED, and COASTAL PROTECTION  
RANGERS, INC.



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OTTEN LAW, PC

DATED: October 2, 2016

Bv: /s/Victor Otten  
VICTOR OTTEN  
KAVITA TEKCHANDANI  
Attorneys for Plaintiffs  
CORY SPENCER, DIANA MILENA  
REED, and COASTAL PROTECTION  
RANGERS, INC.